

MT LEGISLATIVE HISTORY

Chapter 542 19 91

Bill H _____ S 427

Original bill & hist. ☒ C

H. Committee on Judiciary

S. Committee on Judiciary

Hearing Date(s) Apr 11 ☒ C

Hearing Date(s) Mar 06 ☒ C

_____ ☐ C

Apr 03 ☒ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

_____ ☐ C

Date Out Apr 11 ☒ C

Apr 03 ☒ C

Did this bill originate in an interim committee? ☐ Yes ☐ No

Committee _____

Report _____

SB 427 INTRODUCED BY GAGE

GENERALLY REVISE THE PUBLIC GAMBLING LAWS OF MONTANA
BY REQUEST OF DEPARTMENT OF JUSTICE

2/18	INTRODUCED		
2/18	FIRST READING		
2/18	REFERRED TO JUDICIARY		
2/18	FISCAL NOTE REQUESTED		
2/23	FISCAL NOTE RECEIVED		
2/25	FISCAL NOTE PRINTED		
3/06	HEARING		
4/03	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/04	2ND READING PASSED AS AMENDED	50	0
4/04	ON MOTION RULES SUSPENDED TO PLACE ON		
	3RD READING THIS DAY	49	0
4/04	3RD READING PASSED	49	1
	TRANSMITTED TO HOUSE		
4/04	FIRST READING		
4/04	REFERRED TO JUDICIARY		
4/10	REVISED FISCAL NOTE REQUESTED		
4/11	HEARING		
4/11	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
4/12	REVISED FISCAL NOTE PRINTED		
4/12	REVISED FISCAL NOTE RECEIVED		
4/13	2ND READING CONCURRED AS AMENDED	73	25
4/15	3RD READING CONCURRED	69	26
	RETURNED TO SENATE WITH AMENDMENTS		
4/17	2ND READING AMENDMENTS CONCURRED	49	0
4/18	3RD READING AMENDMENTS CONCURRED	49	0
4/23	SIGNED BY PRESIDENT		
4/23	SIGNED BY SPEAKER		
4/24	TRANSMITTED TO GOVERNOR		
4/26	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 647		

EFFECTIVE DATE: 04/26/91 - SECTIONS 4, 26, 58

EFFECTIVE DATE: 07/01/91 - SECTIONS 1-3, 5-25, 27-57

SB 428 INTRODUCED BY NATHE, ET AL.

ALLOCATE MOTOR FUEL TAXES TO CERTAIN RESERVATIONS

2/18	INTRODUCED		
2/18	FIRST READING		
2/18	REFERRED TO TAXATION		
2/18	FISCAL NOTE REQUESTED		
2/22	HEARING		
2/25	FISCAL NOTE PRINTED		
2/25	FISCAL NOTE RECEIVED		
2/25	FISCAL NOTE REQUESTED		
4/01	COMMITTEE REPORT—BILL PASSED AS AMENDED		
4/02	2ND READING DO PASS MOTION FAILED	21	25
4/02	2ND READING INDEFINITELY POSTPONED	29	18
4/03	RECONSIDERED PREVIOUS ACTION ON		
	2ND READING	44	6
4/03	2ND READING PASSED	50	0
4/04	3RD READING PASSED	46	4
	TRANSMITTED TO HOUSE		
4/04	FIRST READING		
4/04	REFERRED TO TAXATION		
4/10	HEARING		
4/12	TABLED IN COMMITTEE		
4/15	ON MOTION TAKEN FROM TABLE IN COMMITTEE, PRINTED, AND PLACED ON 2ND READING		
4/17	2ND READING CONCURRED AS AMENDED	84	13
4/17	ON MOTION RULES SUSPENDED TO PLACE ON 3RD		

1 *Senate* BILL NO. *427*
 2 INTRODUCED BY *Rep. Bob Brown*
 3 BY REQUEST OF THE DEPARTMENT OF JUSTICE
 4
 5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
 6 PUBLIC GAMBLING LAWS OF MONTANA; REVISING THE DEFINITIONS OF
 7 ILLEGAL GAMBLING DEVICE AND ILLEGAL GAMBLING ENTERPRISE;
 8 DEFINING A PROMOTIONAL GAME OF CHANCE AND LIMITING PAYOUTS
 9 ON THE GAMES; PERMITTING LIMITED RELEASE OF LICENSE AND TAX
 10 INFORMATION; ESTABLISHING A ONE-TIME FEE FOR PROCESSING AN
 11 OPERATOR'S LICENSE APPLICATION; PROVIDING REQUIREMENTS FOR
 12 PREMISES APPROVAL; REQUIRING NOTIFICATION BEFORE THE
 13 TRANSFER OF AN OWNERSHIP INTEREST IN AN OPERATOR'S PREMISES;
 14 REQUIRING PERSONS INVOLVED IN CONDUCTING GAMBLING TO BE
 15 EMPLOYEES OF AN OPERATOR; PROHIBITING A GAMBLING LICENSEE
 16 FROM HAVING A SUBSTANTIAL INTEREST IN A GAMBLING BUSINESS
 17 OPERATED AT A DIFFERENT MARKETING LEVEL; PROVIDING FOR
 18 INSPECTION OF PREMISES; CREATING A MANUFACTURER'S LICENSE
 19 FOR ELECTRONIC BINGO AND KENO EQUIPMENT; LEGALIZING LIMITED
 20 CASINO NIGHTS; AMENDING SECTIONS 23-5-112, 23-5-113,
 21 23-5-115, 23-5-152, 23-5-177, 23-5-312, AND 23-5-412, MCA;
 22 AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because

[sections 16 and 23] grant rulemaking authority to the department of justice.

[Section 16] requires the department to adopt rules describing electronic live bingo and keno equipment that may be approved for use in Montana. The rules must ensure that the electronic equipment use a random selection process to determine the outcome of each bingo or keno game.

[Section 23] requires the department to adopt rules to administer the laws governing casino nights. The rules must address but are not limited to:

- (1) procedures for applying for a casino night permit;
- (2) the type of documentation to be submitted as part of the application to establish an organization's nonprofit status; and
- (3) the conduct of games operated during a casino night to ensure that illegal gambling activities are not offered.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires otherwise, the following definitions apply to parts 1 through 6 of this chapter:

- (1) "Applicant" means a person who has applied for a license or permit issued by the department pursuant to parts 1 through 6 of this chapter.

1 (2) "Application" means a written request for a license
2 or permit issued by the department. The department shall
3 adopt rules describing the forms and information required
4 for issuance of a license.

5 (3) "Authorized equipment" means, with respect to live
6 keno or bingo, equipment that may be inspected by the
7 department and that randomly selects the numbers.

8 (4) "Bingo" means a gambling activity played for prizes
9 with a card bearing a printed design of 5 columns of 5
10 squares each, 25 squares in all. The letters B-I-N-G-O must
11 appear above the design, with each letter above one of the
12 columns. No more than 75 numbers may be used. One number
13 must appear in each square, except for the center square,
14 which may be considered a free play. Numbers are randomly
15 drawn using authorized equipment until the game is won by
16 the person or persons who first cover a previously
17 designated arrangement of numbers on the bingo card.

18 (5) "Bingo caller" means a person 18 years of age or
19 older who, using authorized equipment, announces the order
20 of the numbers drawn in live bingo.

21 (6) "Card game table" or "table" means a live card game
22 table authorized by permit and made available to the public
23 on the premises of a licensed gambling operator.

24 (7) "Dealer" means a person with a dealer's license
25 issued under part 3 of this chapter.

1 (8) "Department" means the department of justice.

2 (9) "Distributor" means a person who:

3 (a) purchases or obtains from another person equipment
4 of any kind for use in gambling activities; and

5 (b) sells, leases, or otherwise furnishes the equipment
6 to another person for use in public.

7 (10) "Gambling" or "gambling activity" means risking
8 money, credit, deposit, check, property, or any other thing
9 of value for a gain that is contingent in whole or in part
10 upon lot, chance, or the operation of a gambling device or
11 gambling enterprise. The term does not mean conducting or
12 participating in a promotional game of chance.

13 (11) "Gambling device" means a mechanical,
14 electromechanical, or electronic device, machine, slot
15 machine, instrument, apparatus, contrivance, scheme, or
16 system used or intended for use in any gambling activity.

17 (12) "Gambling enterprise" means an activity, scheme, or
18 agreement or an attempted activity, scheme, or agreement to
19 provide gambling or a gambling device to the public.

20 (13) "Gross proceeds" means gross revenue received less
21 prizes paid out.

22 (14) "Illegal gambling device" means a gambling device
23 not specifically authorized by statute or by the rules of
24 the department. The term includes but is not limited to:

25 (a) a ticket or card, by whatever name known,

1 containing concealed numbers or symbols that may match
2 numbers or symbols designated in advance as prize winners,
3 including a pull tab, punchboard, push card, tip board,
4 pickle ticket, break-open, or jar game, except for one
5 issued under chapter 10 of this title or used in a
6 promotional game of chance approved by the department; and

7 (b) an apparatus, implement, or device, by whatever
8 name known, specifically designed to be used in conducting
9 an illegal gambling enterprise, including a faro box, faro
10 layout, roulette wheel, roulette table, craps table or a
11 slot machine, except as provided in 23-5-153.

12 (15) "Illegal gambling enterprise" means a gambling
13 enterprise that violates or is not specifically authorized
14 by a statute or a rule of the department. The term includes
15 but is not limited to:

16 (a) a card game, by whatever name known, involving any
17 bank or fund from which a participant may win money or other
18 consideration and that receives money or other consideration
19 lost by the participant and includes the card games of
20 blackjack, twenty-one, jacks or better, baccarat, or chemin
21 de fer;

22 (b) a dice game, by whatever name known, in which a
23 participant wagers on the outcome of the roll of one or more
24 die, includes craps, hazard, or chuck-a-luck, but does not
25 include an activity in which a participant rolls one or more

1 die for a chance to obtain a drink or music; and

2 (c) sports betting, by whatever name known, in which a
3 person places a wager on the outcome of an athletic event,
4 including bookmaking, parlay bets, sports sweepstakes, or
5 sultan sports cards, but not including those activities
6 authorized in chapter 4 of this title and parts 2 and 5 of
7 this chapter.

8 (16) "Keno" means a game of chance in which prizes are
9 awarded using a card with 8 horizontal rows and 10 columns
10 on which a player may pick up to 10 numbers. A keno caller,
11 using authorized equipment, shall select at random at least
12 20 numbers out of numbers between 1 and 80, inclusive.

13 (17) "Keno caller" means a person 18 years of age or
14 older who, using authorized equipment, announces the order
15 of the numbers drawn in live keno.

16 (18) "License" means an operator's, dealer's, or
17 manufacturer-distributor's license issued to a person by the
18 department.

19 (19) "Licensee" means a person who has received a
20 license from the department.

21 (20) "Live card game" or "card game" means a card game
22 that is played in public between persons on the premises of
23 a licensed gambling operator.

24 (21) "Lottery" or "gift enterprise" means a scheme, by
25 whatever name known, for the disposal or distribution of

property by chance among persons who have paid or promised to pay valuable consideration for the chance of obtaining the property or a portion of it or for a share or interest in the property upon an agreement, understanding, or expectation that it is to be distributed or disposed of by lot or chance. However, "gift enterprise" does not mean:

(a) lotteries authorized under part 10 of this chapter; or

(b) cash or merchandise attendance prizes or premiums that the county fair commissioners of agricultural fairs and rodeo associations may give away at public drawings at fairs and rodeos.

(22) "Manufacturer" means a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

(23) "Operator" means a person who purchases, receives, or acquires, by lease or otherwise, and operates or controls for use in public, a gambling device or gambling enterprise authorized under parts 1 through 6 of this chapter.

(24) "Permit" means approval from the department to make available for public play a gambling device or gambling enterprise approved by the department pursuant to parts 1 through 6 of this chapter.

(25) "Person" or "persons" means both natural and

artificial persons and all partnerships, corporations, associations, clubs, fraternal orders, and societies, including religious and charitable organizations.

(26) "Premises" means the physical building or property within or upon which a licensed gambling activity occurs, as stated on an operator's license application and approved by the department.

(27) "Promotional game of chance" means a scheme, by whatever name known, for the disposal or distribution of property by chance among persons who have not paid or are not expected to pay any valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property, a portion of it, or a share in it.

~~(27)~~(28) "Public gambling" means gambling conducted in:

(a) a place, building, or conveyance to which the public has access or may be permitted to have access; or

(b) a place of public resort, including but not limited to a facility owned, managed, or operated by a partnership, corporation, association, club, fraternal order, or society, including a religious or charitable organization.

~~(28)~~(29) "Raffle" means a gift enterprise in which each participant buys a chance or chances to win a prize.

~~(29)~~(30) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or

1 machine that, upon insertion of a coin, currency, token,
 2 credit card, or similar object or upon payment of any
 3 valuable consideration, is available to play or operate, the
 4 play or operation of which, whether by reason of the skill
 5 of the operator or application of the element of chance, or
 6 both, may deliver or entitle the person playing or operating
 7 the gambling device to receive cash, premiums, merchandise,
 8 tokens, or anything of value, whether the payoff is made
 9 automatically from the machine or in any other manner. This
 10 definition does not apply to video gambling machines
 11 authorized under part 6 of this chapter.

12 ~~(30)~~(31) "Video gambling machine" is a gambling device
 13 specifically authorized by part 6 of this chapter and the
 14 rules of the department."

15 **Section 2.** Section 23-5-113, MCA, is amended to read:

16 "23-5-113. Department as criminal justice agency --
 17 seized property. (1) The department is a criminal justice
 18 agency. Designated agents of the department are granted
 19 peace officer status, with the power of search, seizure, and
 20 arrest, to investigate gambling activities in this state
 21 regulated by parts 1 through 6 of this chapter and the rules
 22 of the department and to report violations to the county
 23 attorney of the county in which they occur.

24 (2) Upon conviction for any violation of parts 1
 25 through 6 of this chapter, the court may order any property

1 seized by a department agent during a lawful search to be
 2 forfeited to the department, sold, if necessary, and
 3 disposed of under 23-5-123."

4 **Section 3.** Section 23-5-115, MCA, is amended to read:

5 "23-5-115. Powers and duties of department --
 6 licensing. (1) The department shall administer the
 7 provisions of parts 1 through 6 of this chapter.

8 (2) The department shall adopt rules to administer and
 9 implement parts 1 through 6 of this chapter.

10 (3) The department shall provide licensing procedures,
 11 prescribe necessary application forms, and grant or deny
 12 license applications.

13 (4) The department shall prescribe recordkeeping
 14 requirements for licensees, provide a procedure for
 15 inspection of records, provide a method for collection of
 16 taxes, and establish penalties for the delinquent reporting
 17 and payment of required taxes.

18 (5) The department may suspend, revoke, deny, or place
 19 a condition on a license issued under parts 1 through 6 of
 20 this chapter.

21 (6) The department may not make public or otherwise
 22 disclose information obtained in the application or tax
 23 reporting processes, except for general statistical
 24 reporting or studies or as provided in [section 4].

25 (7) The department shall assess, collect, and disburse

any fees, taxes, or charges authorized under parts 1 through 6 of this chapter."

NEW SECTION. Section 4. Disclosure of information. (1)

The department may disclose the following information from a license or permit application:

(a) the applicant's name;

(b) the address of the business where the activity under the license or permit is to be conducted;

(c) the name of each person having an ownership interest in the business;

(d) the applicant's source of financing;

(e) types of permits requested by the applicant; and

(f) any other information that the department, after balancing the public's right to know against the applicant's right to privacy, considers suitable for disclosure.

(2) In addition to the information enumerated in subsection (1), the department may disclose any other relevant information obtained in the application or tax reporting process or as a result of other department operations to:

(a) a federal, state, city, county, or tribal criminal justice agency; and

(b) the department of revenue and the federal internal revenue service.

Section 5. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exception exceptions. (1) Except as provided in 23-5-153 and subsection subsections (2) through (4) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in his possession or under his control or to purposely--or--knowingly permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) This-section Subsection (1) does not apply to a public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(3) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is

commensurate with the cost of issuing the license.

(4) An illegal gambling device may be possessed or located in a public museum owned and operated by the state, a county, or a city for display purposes only and not for operation."

Section 6. Section 23-5-177, MCA, is amended to read:

"23-5-177. Operator of gambling establishment -- license --fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) any other relevant information requested by the department; and

(c) a license application processing fee, as required in subsection (8).

(3) Before issuing an operator's license, the department shall approve, in accordance with [section 7], the premises in which the gambling activity is to be conducted.

(4) Regardless of the number of on-premises alcoholic

beverage licenses issued for a premises, the department may issue only one operator's license for the premises.

(2)(5) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game table ~~licensed~~ for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and ~~license--number--or--deal~~ permit number for each ~~licensed~~ game; and

(d) any other relevant information determined necessary by the department.

(3)(6) The operator's license must be issued annually along with all other ~~licenses~~ permits for gambling devices or games ~~licensed~~ issued to the operator.

(4)(7) The operator's license must be updated each time a ~~video~~ gambling device machine, bingo, keno, or card game table ~~license~~ permit is newly issued or the ~~device~~ machine or game is removed from the premises.

(5)(8) The department ~~may-not~~ shall charge an applicant for an operator's license a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies

for licensure under 23-5-176 the issuance of an operator's license. After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.

(6)(9) The operator's license must be prominently displayed upon the premises for which it is issued."

NEW SECTION. Section 7. Premises approval. (1) The department may approve a premises for issuance of an operator's license if the premises meets the requirements contained in subsections (2) through (4).

(2) The premises must:

(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;

(b) have a unique address assigned by the local government in which the premises is located; and

(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued.

(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling.

(4) If the premises is connected by an internal

entrance to another premises for which an operator's license has been issued, the establishments operated on each premises may not be owned by any combination of the same persons and may not be financially or operationally interrelated.

NEW SECTION. Section 8. Transfer of ownership interest. A licensed operator shall notify the department in writing before transferring any ownership interest in his premises.

NEW SECTION. Section 9. Employees of operator -- receipt of gambling revenues. (1) Except as provided in subsection (2):

(a) a person other than a licensed operator who is involved in conducting a gambling activity on a licensed operator's premises must be an employee of the licensed operator; and

(b) all revenue derived from conducting a gambling activity on a licensed operator's premises must first accrue to the licensed operator.

(2) The requirements in subsection (1) do not apply to:

(a) a manufacturer or distributor who furnishes video gambling machines to an operator; or

(b) revenue derived from the operation of video gambling machines.

NEW SECTION. Section 10. Interest in gambling-related

1 business operating at different marketing level prohibited.

2 (1) For purposes of this section, the issuance of each of
3 the following gambling licenses for the operation of a
4 business constitutes a different marketing level:

5 (a) a premises license;

6 (b) a route operator's license; and

7 (c) a manufacturer's or a distributor's license.

8 (2) Except as provided in subsection (4), a person who
9 has obtained a premises, route operator's, manufacturer's,
10 or distributor's license may not:

11 (a) obtain another license for the operation of a
12 business at a different marketing level;

13 (b) have a substantial interest in another business
14 operating at a different marketing level;

15 (c) allow an officer of his business to have a
16 substantial interest in another business operating at a
17 different marketing level;

18 (d) employ a person in any capacity if the person is
19 also employed by another business operating at a different
20 marketing level; or

21 (e) allow another business operating at a different
22 marketing level or a person with a substantial interest in
23 such a business to have a substantial interest, either
24 directly or indirectly, in his business.

25 (3) A person possesses a substantial interest in a

1 business if the person or his spouse:

2 (a) owns, operates, manages, or conducts the business
3 or any part of the business;

4 (b) shares in any of the profits or potential profits
5 of the business;

6 (c) is an officer or director of the entity owning the
7 business;

8 (d) owns or otherwise controls 5% or more of the assets
9 or stock of the business; or

10 (e) furnishes 5% or more of the capital, whether in
11 cash, goods, or services, for the operation of the business
12 during any calendar year.

13 (4) (a) The restrictions imposed in subsection (2) do
14 not apply to a person who on January 1, 1991, was licensed
15 by the department to operate businesses at different
16 marketing levels if the person continuously operates the
17 businesses after that date and meets the requirements of
18 subsection (4)(b). However, the person may not obtain an
19 additional license from the department to operate a business
20 at a different marketing level if the business was not
21 operated by the person on January 1, 1991.

22 (b) A license issued in compliance with subsection
23 (4)(a) may not be renewed nor may an appropriate license be
24 issued to allow continued operation of a business unless, at
25 the time of application for issuance or renewal of the

license, the natural persons who together hold the majority financial interest in the business are the same as on January 1, 1991.

NEW SECTION. Section 11. Inspection of premises, records, and devices. The department or a local law enforcement official may inspect at any time during normal business hours a premises, as defined in 23-5-112, or a facility where gambling devices are manufactured or distributed. The inspection may include the examination of records, equipment, and proceeds related to the operation of a gambling activity or the manufacture or distribution of a gambling device.

Section 12. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 13. Section 23-5-412, MCA, is amended to read:

"23-5-412. Card prices and prizes. (1) The price for an individual bingo or keno card may not exceed 50 cents.

(2) Bingo and keno prizes may be paid in either

tangible personal property or cash. A prize may not exceed the value of \$100 for each individual bingo award or keno card. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the award.

(3) If a licensed operator conducts a promotional game of chance involving bingo or keno, the prize limit provided for in subsection (2) applies to prizes awarded as a result of the promotional game of chance.

(4) A player may give the a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

NEW SECTION. Section 14. Manufacturer's license for electronic bingo or keno equipment -- license and processing fees. (1) A person may not assemble, produce, manufacture, or supply electronic equipment for use in conducting live bingo or keno games in this state without obtaining an annual manufacturer's license from the department.

during a casino night:

- (a) live card games authorized under 23-5-311;
- (b) live bingo and keno games; and
- (c) raffles.

NEW SECTION. Section 19. Application for permit. (1) A nonprofit organization may apply to the department for a casino night permit on a form prescribed and furnished by the department. The application must be accompanied by a fee of \$25.

(2) The application must include:

- (a) the name and address of the applicant;
- (b) the name and address of the applicant's officers;
- (c) the location, date, and time at which the applicant will conduct the casino night;
- (d) sufficient evidence concerning the structure and operation of the organization to enable the department to determine whether the applicant is a nonprofit organization; and
- (e) other relevant information requested by the department.

NEW SECTION. Section 20. Issuance of permit -- disposition of fee. (1) After review of an application submitted under [section 19], the department may issue to the applicant a casino night permit. Only one permit may be issued to the applicant each year. The permit is valid for

only one location and is not assignable or transferrable.

(2) The department shall retain the fee provided for in [section 19] for administrative purposes.

NEW SECTION. Section 21. Requirements for conducting casino nights. A nonprofit organization that has obtained a permit under [section 20] shall conduct a casino night in compliance with the following conditions:

(1) The casino night may not last more than 12 consecutive hours.

(2) The casino night must be managed and operated only by members of the nonprofit organization that was issued the permit under [section 20]. The members may not be compensated for their services;

(3) Only merchandise may be awarded as prizes.

(4) Proceeds derived from the casino night, after payment of reasonable administrative expenses, may be used only for a civic, charitable, or educational purpose, and administrative expenses may not exceed 50% of the proceeds.

NEW SECTION. Section 22. Nonapplicability of certain gambling laws. The provisions of parts 3 and 4 of this chapter do not apply to live card games, live bingo or keno games, or raffles conducted during a casino night.

NEW SECTION. Section 23. Rules. The department shall adopt rules to administer [sections 17 through 22]. At a minimum, the rules must address application procedures and

(2) The department shall charge an annual license fee of \$1,000 for issuing or renewing a manufacturer's license.

(3) A manufacturer's license expires June 30 of each year, and the license fee may not be prorated.

(4) In addition to the license fee provided for in subsection (2), the department may charge a one-time manufacturer's application fee to cover the actual cost of processing the original license. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(5) The department shall retain for administrative purposes the license and processing fees collected under this section.

NEW SECTION. Section 15. Examination and approval of electronic bingo and keno equipment -- fee. (1) A licensed manufacturer shall submit to the department for examination a prototype of any electronic equipment intended for use in conducting live bingo or keno games before the equipment is used in the state.

(2) Before the equipment is examined, the manufacturer shall pay the anticipated examination costs as determined by the department. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(3) Upon completion of the examination, the department

may approve, disapprove, or place a condition upon use of the equipment before it is made available for use in conducting live bingo or keno games.

NEW SECTION. Section 16. Electronic live bingo and keno equipment specifications -- rules. The department shall adopt rules describing electronic live bingo and keno equipment that may be approved under [section 15]. At a minimum, the rules must provide that the equipment use a random selection process to determine the outcome of each game.

NEW SECTION. Section 17. Definitions. Unless the context requires otherwise, the following definitions apply to [sections 17 through 23]:

(1) "Casino night" means a fundraising event during which wagers may be made in gambling activities authorized in [section 18] through the use of imitation money.

(2) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity.

NEW SECTION. Section 18. Casino nights authorized. (1) Nonprofit organizations may conduct or participate in a casino night.

(2) The following gambling activities may be conducted

1 play of the games during a casino night.

2 NEW SECTION. **Section 24.** Codification instruction --
3 code commissioner instruction. (1) [Sections 4, 7 through
4 11, and 14 through 23] are intended to be codified as an
5 integral part of Title 23, chapter 5. [Sections 17 through
6 23] are intended to be codified as a separate part of Title
7 23, chapter 5. The provisions of Title 23, chapter 5, part
8 1, apply to [sections 4, 7 through 11, and 14 through 23].

9 (2) The code commissioner shall recodify part 10 of
10 Title 23, chapter 5, as a new chapter in Title 23. Internal
11 references in the Montana Code Annotated section text and in
12 any act of the 52nd legislature must be changed by the code
13 commissioner if necessary to retain their original meaning.

14 NEW SECTION. **Section 25.** Coordination instruction. If
15 ____ Bill No. ____ [LC 1036] is not passed and approved,
16 [section 10 of this act] is void.

17 NEW SECTION. **Section 26.** Effective dates.
18 (1) [Sections 1 through 9, 11 through 26, and this section]
19 are effective October 1, 1991.
20 (2) [Section 10] is effective July 1, 1992.

-End-

STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0427, as introduced.DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the public gambling laws of Montana.

ASSUMPTIONS:

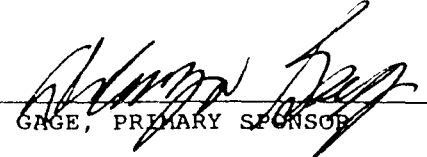
1. Five bingo/keno manufacturers will be licensed each year, and the cost of processing their initial or renewal license will be \$1,000, plus a one-time application fee. Five original license applications will be processed in FY92 and one original processed each year thereafter.
2. Three hundred new operator's license applicants will be processed each year, with the average processing cost being \$400. The cost is chargeable as a one-time license application processing fee.
3. One hundred non-profit "casino night" permits will be sold each year at a fee of \$25 per permit.
4. Revenue collected for lab testing and license processing will be expended totally for those purposes.
5. Current law is represented by the executive budget base for the Gambling Control Division.

FISCAL IMPACT:Department of Justice-Gambling Control Division

	FY 92			FY 93		
	Current Law	Proposed Law	Difference	Current Law	Proposed Law	Difference
<u>Expenditures:</u>						
Personal Services	963,700	963,700	0	963,700	963,700	0
Operating Costs	397,000	527,000	130,000	397,000	523,000	126,000
Equipment	90,300	90,300	0	90,300	90,300	0
Total	1,451,000	1,581,000	130,000	1,451,000	1,577,000	126,000
<u>Funding:</u>						
State Special (02)	1,451,000	1,581,000	130,000	1,451,000	1,577,000	126,000
<u>Revenue:</u>						
Manufacturer's License (02)	0	5,000	5,000	0	5,000	5,000
Lab Testing Fees (02)	25,000	30,000	5,000	25,000	30,000	5,000
Manufacturer/Operator Lic. (02)	0	125,000	125,000	0	121,000	121,000
Non-Profit Permits (02)	0	2,500	2,500	0	2,500	2,500
Total State Special	25,000	162,500	137,500	25,000	158,500	133,500


 ROD SUNDESTED, BUDGET DIRECTOR
 Office of Budget and Program Planning

DATE


 DELWYN GAGE, PRIMARY SPONSOR

DATE

Fiscal Note for SB0427, as introduced

SB 427

In compliance with a written request, there is hereby submitted a Fiscal Note for SB0427, third reading.

DESCRIPTION OF PROPOSED LEGISLATION:

An act to generally revise the public gambling laws of Montana.

ASSUMPTIONS:

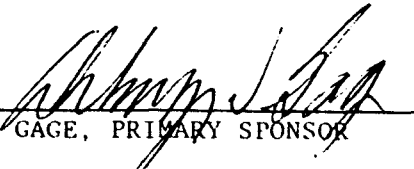
1. Five electronic bingo/keno manufacturers will initially apply for licenses in FY92 and one in FY93, and the cost of processing each application is \$1,000. Five manufacturer licenses will be issued each year of the biennium. The license fee to be charged is \$1,000 for the initial application processing and \$1,000 each year for licensing.
2. Three hundred new operator's license applicants will be processed each year, with the average processing cost being \$400. The cost is chargeable as a one-time license application processing fee.
3. 200 individuals will apply for a "card-room contractor" license each year at a fee of \$150 each.
4. Proration of video machine permits will produce percentages of: 82% (first quarter), 7% (second quarter), 6% (third quarter) and 5%.
5. The annual fee for live bingo/keno permits will be reduced from \$500 to \$250 and the number of permits will be reduced from 115 to 95 because of the exclusion of nonprofit organizations.
6. The current bingo/keno tax of 5% of net income will be replaced by a tax of 1% of gross income which is estimated to reduce revenue by \$5,000 each year.
7. Current law expenditures are represented by the LFA narrative for House Bill 2, pink copy.

FISCAL IMPACT:

see next page

 4-12-91

ROD SUNDSTED, BUDGET DIRECTOR DATE
Office of Budget and Program Planning

 4/12/91

DELWYN GAGE, PRIMARY SPONSOR DATE
Fiscal Note for SB0427, third reading **SB 427-2**

Department of Justice-Gambling Control Division

	FY 92			FY 93		
	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>	<u>Current Law</u>	<u>Proposed Law</u>	<u>Difference</u>
<u>Expenditures:</u>						
Operating Costs	466,700	591,700	125,000	462,800	583,800	121,000
<u>Funding:</u>						
State Special (02)	466,700	591,700	125,000	462,800	583,800	121,000
<u>Revenue:</u>						
Manufacturer's License (02)	0	5,000	5,000	0	5,000	5,000
Manufacturer's Proc.Fee (02)	0	5,000	5,000	0	1,000	1,000
New Operator Proc. Fee (02)	0	120,000	120,000	0	120,000	120,000
Live Bingo/Keno Permit (02)	58,000	24,000	(34,000)	58,000	24,000	(34,000)
Bingo/Keno Tax (02)	46,000	41,000	(5,000)	46,000	41,000	(5,000)
Video Machine Permits (02)	2,400,000	2,200,000	(200,000)	2,400,000	2,200,000	(200,000)
Card Room Contractor Lic (02)	<u>0</u>	<u>30,000</u>	<u>30,000</u>	<u>0</u>	<u>30,000</u>	<u>30,000</u>
Total State Special	2,504,000	2,425,000	(79,000)	2,504,000	2,421,000	(83,000)
Reduction in Local Distributions			105,000			105,000

EFFECT ON COUNTY OR OTHER LOCAL REVENUE OR EXPENDITURES:

Revenue to local governments would decrease by approximately \$105,000 each year of the 1993 biennium.

MINUTES

MONTANA SENATE
52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on March 6, 1991, at 10:05 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion:

HEARING ON SENATE BILL 427

Presentation and Opening Statement by Sponsor:

Senator Del Gage, District 5, said SB 427 was requested by the Department of Justice (DOJ). He explained that the bill deals with gaming industry issues that the Gaming Advisory Council did not have time to address.

Proponents' Testimony:

Bob Robinson, Administrator, Gambling Control Division, DOJ, provided a bill summary and written testimony in support of SB 427 (Exhibits #1 and #2). He advised the Committee that HBs 958, 919, and 673 all deal with some of the same issues in SB 427.

Mr. Robinson told the Committee that SB 431, passed in 1989, was a "broad sweep and resulted in some confusion". He said SB 427 tries to address the remaining policy issues, and that he believes the Legislature needs to set public policy.

Mr. Robinson stated that the Gambling Control Division only provides information stated on the license itself, and not information in application or tax files. He explained that subsection (1)(f) in Section 3 of the bill allow release of some criminal information. Mr. Robinson added that the Division has no use for Department of Revenue (DOR) tax information.

Mr. Robinson further stated that Sections 6 and 7 of the bill provide clarification for licensure and require applicants to pay the cost of a background investigation. He advised the Committee that a February 20 court directive clarified that the Division has the authority to approve a premise.

Mr. Robinson said Sections 12 and 13 limit promotional prizes, and Section 14 would allow inspection of electronic equipment for which there are presently no standards. He stated that Sections 17-21 legalize casino nights, but recognize the conflict with the Indian Gaming Regulatory Act concerning roulette and craps.

Arnold Wiley, District Director, Internal Revenue Service, Montana, read from a prepared statement in support of SB 427 (Exhibit #3). He said compliance with state and federal income tax laws is assumed, but is not always being done by people in the gaming industry. Mr. Wiley stated he would like to be able to obtain information from DOJ to assist in identifying those not in compliance. He said this information would also help to identify true owners of gambling establishments and those with financial interests in them. Mr. Wiley commented that some of these interests may be using Montana businesses to launder money from other illegal businesses outside the state. He further commented that there is a legal and moral obligation on the part of IRS concerning confidentiality.

Jeff Miller, Administrator, Income and Miscellaneous Tax Division, Department of Revenue, said information from DOJ would help identify targets of non-compliance, and could substantially improve audit revenue.

Mike Sherwood, private attorney, Missoula, said he was present representing Ronald Ulrich who paid \$125,000 for a liquor license and had committed to lease gambling machines. He explained that DOR approved the premises for a liquor license and remodeling began in April 1990. Mr. Sherwood advised the Committee that when the Gambling Control Division realized there was more than one license and that there were four internal entrances comprising 30 feet of approximately 70 feet, it adopted a rule (without Mr. Sherwood's knowledge and without going to rulemaking authority) which affected his client, Mr. Ulrich.

Mr. Sherwood said he represents about 40 small businesses of which about 18 have licenses. He stated Section 7 of the bill needs clarification for his client, and advised the Committee that Judge Henson of Missoula stamped his approval on the DOJ rule. Mr.

Sherwood suggested that more direction is needed as to whether or not an entrance must be locked, how wide it should be, etc. He said it is very hard to transfer a liquor license to new premises because fire, health, revenue, and justice departments must be contacted for approval. Mr. Sherwood told the Committee he believes, however, the bill does clear up a lot of problems.

Chairman Pinsoneault suggested to Mr. Sherwood that he draft amendments for executive action.

Harley Warner, Montana Association of Churches, read from prepared testimony in support of SB 427 (Exhibit #4).

John Blair, Yellowstone County Tavern Association, said the loopholes in SB 431 (1989) would be closed by SB 427. He stated he believes the price of beer licenses will escalate tremendously for the intent of doubling the number of gaming machines in establishments.

Jim Gusick, Gaming Advisory Council, told the Committee he fully concurs with DOJ, but wanted language reinserted in Section 5, page 13, line 2, subsection (4). He asked the Committee to thoroughly consider Section 10, on pages 16-19, and recommended leaving Sections 12 and 13, pages 19-20, in the bill. Mr. Gusick further recommended amending the new section to stated that raffles will be strictly for non-profit organizations and not commercial enterprises.

Mark Staples, Montana Tavern Association, said he believes the majority of operators run tight and clean law-abiding operations. He further stated he believes this legislation will weed out those who don't. Mr. Staples said he supported the section on stacking of licenses, and agreed with the DOJ definition of premise. He agreed with and supported the statements made by John Blair concerning accelerated cost of beer licenses, and by DOJ on vertical integration.

Ludlow Kramer, Big Sky Games, advised the Committee he has been in the bingo business in Washington for 16 years, and in Montana for 3 years. He said Sections 12 and 13, setting limits on promotions, is a good idea, and told the Committee his company is paying out \$46,420 in free promotional games in Montana this year.

Mr. Kramer commented that he is talking about clean, carpeted bingo halls, whose clients average 41 years of age. He suggested three alternatives to the bill: 1) creating a \$100/day cap or \$1000/month; 2) creating a percentage system whereby operators cannot pay out more than a certain amount of profit (as done in Washington); 3) allowing the same payout for bingo as for keno.

Mr. Kramer told the Committee that Malmstrom Air Force Base in Great Falls has a \$5,000 and \$10,000 bingo game, and that Indian reservations can do the same. He said his halls drew 48,270 people to bingo last year.

Chris Kolstad, Montana Jaycees, said he also represented other non-profit organizations in the Conrad, Shelby, Choteau area. He stated that Section 18 of the bill would take away the uniqueness and allure of casino nights. He also suggested amending line 2, page 23, Section 18 to include dice games and other games of chance, except slot machines.

John Poston, Montana Coin Machine Operators Association, said he believes coin operators are adequately regulated at this time, but supports the remainder of the bill. He told the Committee he had great concerns about (d) and (f) in Section 4 of the bill allowing publicity as to where a licensee gets financing. Mr. Poston said he spoke with members of the press who feel the same way, and added that he believes there is a lot of mischief here.

Mr. Poston advised the Committee that there are at least three house bills addressing this situation. He called Section 25 to the attention of the Committee, and asked if the bill was an "elusive search for more FTEs. Mr. Poston stated he felt it was very unfair to be policed from revenue gained from the coin-operator part of the industry.

Joe Roberts, Don't Gamble with the Future, said he supported adequate enforcement of gambling laws in the state, and that he sees it as a natural progression from SB 431 (1989). He commented that he believes DOJ has addressed and defined problem areas to the best of its ability, but also believes some predictability is needed as stated by Mike Sherwood.

Opponents' Testimony:

Larry Akey, Gaming Industry Association of Montana, said the Association supports strong regulation and enforcement, as long as it is necessary and benefits the public and Association members. He advised the Committee that the Gaming Advisory Council met over a period of 16 months, but was unable to reach agreement in certain areas. Mr. Akey also commended their efforts.

Mr. Akey explained amendments proposed by the Association (Exhibit #5). He commented that a fish derby would be a gambling activity, as it involves chance. Mr. Akey stated that amendments 2-4 address illegal gambling devices or activity. He said the if the Committee adopts language in SB 427, a restaurant with a decorative roulette wheel hanging on the wall would be in violation, and a craps table covered with glass to serve as a coffee table would be an illegal gambling device. He asked the Committee to give serious consideration to the amendments.

Mr. Akey said amendment 5 addresses premises, and leaves out financial independence language. He explained that a pizza parlor and bar in Laurel share a common kitchen, and if SB 427 passes one of those businesses would have to close. Mr. Akey advised the Committee that this is the first time he heard DOR or IRS request availability of information, and said he had no problem with this.

Mr. Akey told the Committee there is no economic benefit in having an operators' license by itself, and asked them to reinstate Section 7. He said amendment 10 allows already stacked businesses to continue to operate, and amendment 13 would strike policy issues in Sections 9 and 10 of the bill.

Mr. Akey said the Association suggested issuing a multiple operators license for each establishment, or utilize South Dakota's solution of separate categories for licenses. He said he would be happy to work with DOJ on this language, and commented that Section 10 attempts to address a problem which does not exist.

Mr. Akey advised the Committee that there are 1,667 sellers in Montana. He said \$500,000 is not unreasonable to open up a full-fledged casino, and that there is a much higher financial barrier to get into ranching. Mr. Akey commented that price and product diversity are established by the Legislature, and said no measure of competitiveness is not met by the gaming industry.

Mr. Akey further commented that he believes problems do exist further up the chain, but not at the operator level. He said there are other ways to address market concentration, and added that bingo is a distinct promotional game. Mr. Akey then asked if keno and free poker promotions cause any harm. He also asked the Committee to consider any or all of the proposed amendments.

Questions From Committee Members:

Senator Svrcek asked how the Connecticut case related to casino nights. Bob Robinson replied that the courts ruled in two occasions that the state must negotiate with the tribes to enter into a compact to allow opening of casinos.

Senator Svrcek asked if presently the Division can come into an establishment at any time and look at any and all records, and without a warrant. Bob Robinson replied the an inspection is different from a search. He stated access to premises is a standard working situation which is proposed in the bill.

Senator Svrcek asked how Section 11 is different now. Bob Robin replied the Division is doing this now, but some operators object, and it is not clear in the law.

Senator Brown asked if Section 4 of this bill would help monitor laundering of illegal proceeds from other states. Mr. Wiley replied it would.

Closing by Sponsor:

Senator Gage, advised the Committee that the Legislature needs to address policy issues brought up by Bob Robinson an Larry Akey. He commented that "Chapter 10" on page 5, line 5 should be "part 10", and said "seized by departmental agent" on line 1, page 10, should be changed to include "local law enforcement". Senator Gage

stated subsection (4) on page 13, should include non-profit, and the LC# on page 25, Section 25, should be HB 119.

HEARING ON HOUSE BILL 101

Presentation and Opening Statement by Sponsor:

Representative Angela Russell, District 99, said HB 101 deals with 61-8-714, MCA, driving under the influence. She advised the Committee that Section 2 on page 5 of the bill deals with 61-8-722, MCA, driving with excess blood alcohol concentration.

Representative Russell said the Joint Interim Subcommittee on Juvenile and Adult Detention found that 26 percent of the jail population is DUI offenders. She commented that subsection (7) on page 4 of the bill says the court "may" order that jail terms be served in another facility. She told the Committee Sections 2 and 7 of the bill contain the same language.

Proponents' Testimony:

Mark Staples, Montana Tavern Association, said he participating in the hearing of HB 101 in the House Judiciary Committee, but did not see the amendment "with the concurrence of the defendant". He advised the Committee that he would support the bill with this amendment.

Opponents' Testimony:

There were no opponents of HB 101.

Questions From Committee Members:

Senator Mazurek asked why the defendant must concur. Mr. Staples replied that he served as state coordinator to revamp the jails, and believes defendants should have the right to oppose alternative sentencing.

Chairman Pinsoneault asked if HB 101 dovetails with other legislation on alternative sentencing. Mark Staples replied it does, but this bill has to do with where defendants are housed and seems to be directed at DUI offenders.

Senator Towe commented that the provision is in one place, but not in the second. Mark Staples replied it should be in both.

Senator Towe asked if there were any reason why defendant concurrence is not covered by the fact that the judge "may" order. Mark Staples replied it still gives the court the say, and asked if the Alpha House in Billings has a constitutionally mandated exercise yard.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1997

Date 6 Mar 97

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

EXHIBIT #1
6 Mar 91
SB 427

BILL SUMMARY: SENATE BILL NO. 427

Prepared by the Gambling Control Division
February 19, 1991

SECTION 1 amends the general definition section of the gambling laws to:

- (1) exclude a promotional game of chance from the definition of gambling (23-5-112(10), MCA);
- (2) provide specific examples of illegal gambling devices and illegal gambling enterprises (23-5-112(14) and (15), MCA); and
- (3) define a promotional game of chance as a scheme for disposing of property by chance among persons who have not paid or are not expected to pay valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property (23-5-112(27), MCA).

SECTION 2 amends 23-5-113, MCA, to allow a court to order, upon conviction for a gambling violation, the forfeiture of property seized by a Department of Justice agent during a lawful search.

SECTION 3 amends 23-5-115, MCA, to permit the Department of Justice to disclose certain information obtained in the gambling application or tax reporting processes as provided in section 4.

SECTION 4 is a new code section addressing the authority of the Department of Justice to disclosure information. Subsection (1) permits the Department to disclose the following information from a license or permit application:

- (1) the applicant's name;
- (2) the address of the business where the activity under the license or permit is to be conducted;
- (3) the name of each person having an ownership interest in the business;

- (4) the applicant's source of financing;
- (5) types of permits requested by the applicant; and
- (6) any other information that the Department, after balancing the public's right to know against the applicant's right to privacy, considers suitable for disclosure.

Subsection (2) permits the Department to disclose the above information plus any other relevant information to:

- (1) a federal, state, city, county, or tribal criminal justice agency; or
- (2) the Montana Department of Revenue or the federal Internal Revenue Service.

SECTION 5 amends 23-5-152, MCA, to make it a misdemeanor offense to operate an illegal gambling enterprise. The section further provides that an illegal gambling device may be possessed or located in a public museum for display purposes only.

SECTION 6 amends 23-5-177, MCA. to:

- (1) require the Department of Justice to approve the premises in which the gambling activity is to be conducted before issuing an operator's license;
- (2) prohibit the Department from issuing more than one operator's license per premises, regardless of the number of on-premises alcoholic beverage licenses that have been issued for the premises;
- (3) impose a one-time operator's license application processing fee to cover the cost incurred by the Department in determining whether the applicant qualifies for licensure.

SECTION 7 is a new code section establishing requirements that a premises must meet before the Department of Justice may issue an operator's license.

SECTION 8 is a new code section requiring an operator to notify the Department of Justice before transferring any ownership interest in his premises.

SECTION 9 is a new code section requiring:

- (1) a person who is involved in conducting a gambling activity on an operator's premises to be an employee of the operator; and
- (2) all revenue derived from conducting a gambling activity on an operator's premises to first accrue to the operator.

The requirements listed above do not apply to a manufacturer or distributor who furnishes video gambling machines to an operator or to revenue derived from the operation of video gambling machines.

SECTION 10 is a new code section that is tied to House Bill No. 919 (HB 919), a gambling license and permit bill introduced at the Department of Justice's request.

HB 919 breaks a manufacturer-distributor's license into three separate licenses: a manufacturer's, distributor's, and route operator's. In addition, HB 919 renames an operator's license as a premises license. Based on this new classification of licenses, subsection (1) of section 10 of this bill provides that issuance of each of the following licenses for operating a business constitutes a different marketing level:

- (1) a premises license;
- (2) a route operator's license; and
- (3) a manufacturer's or distributor's license.

Subsection (2) of section 10 prohibits a person who has obtained a gambling license from:

- (1) obtaining another license to operate a business at a different marketing level;
- (2) having a substantial interest in another business operating at a different marketing level;
- (3) allowing an officer of his business to have a substantial interest in another business operating at a different marketing level;
- (4) employing a person who is also employed by another business operating at a different marketing level; or

(5) allowing another business operating at a different marketing level or a person with a substantial interest in the business to have a substantial interest in his business.

Subsection (3) defines the term "substantial interest".

Subsection (4) is a "grandfather" clause that exempts from the provisions of section 10 those persons who on January 1, 1991, were licensed by the Department of Justice to operate businesses at different marketing levels.

SECTION 11 is a new code section that permits the Department of Justice or local law enforcement officials to inspect a premises where a gambling activity is being conducted or a facility where gambling devices are manufactured or distributed.

SECTION 12 amends 23-5-312, MCA, to subject a promotional game of chance involving a live card game (i.e., a card game in which no consideration is paid to participate) to a prize limit of \$300. The same prize limit is imposed on live card games in which consideration is paid.

SECTION 13 amends 23-5-412, MCA, to subject a promotional game of chance involving bingo or keno (i.e., a bingo or keno game in which no consideration is paid to participate) to a prize limit of \$100 per card. The same prize limit is imposed on bingo and keno games in which consideration is paid.

SECTION 14 is a new code section requiring a person who manufactures or supplies electronic bingo or keno equipment to obtain an annual manufacturer's license from the Department of Justice. The license fee is \$1,000. In addition to the license fee, the Department may charge a one-time application fee to cover the cost of processing the original license. The license and processing fees are retained by the Department for administrative purposes.

SECTION 15 is a new code section requiring a licensed manufacturer to submit to the Department of Justice for examination a prototype of any electronic bingo or keno equipment intended for use in the state. The manufacturer must pay the anticipated examination costs. After completing the examination, the Department may approve, disapprove, or conditionally approve use of the equipment.

SECTION 16 is a new code section authorizing the Department of Justice to adopt rules describing the electronic bingo and keno equipment that may be approved for use in the state.

SECTION 17 is a new code section defining the terms "casino night" and "nonprofit organization".

SECTION 18 is a new code section authorizing a nonprofit organization to conduct a casino night that may offer the following gambling activities:

- (1) live card games authorized under 23-5-311. MCA (bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist);
- (2) live bingo and keno games; and
- (3) raffles.

SECTION 19 is a new code section describing the process for applying for a casino night permit. The permit fee is \$25.

SECTION 20 is a new code section authorizing the Department of Justice to issue to a nonprofit organization one casino night permit per year. The permit fee is retained by the Department for administrative purposes.

SECTION 21 is a new code section imposing certain requirements on conducting casino nights (e.g., maximum duration of 12 hours, merchandise prizes only, etc.).

SECTION 22 is a new code section exempting gambling activities conducted during a casino night from the licensure and other regulatory requirements imposed on live card games, live bingo, live keno, and raffles.

SECTION 23 is a new code section authorizing the Department of Justice to adopt rules to administer the casino night provisions.

SECTION 24 is a new code section indicating where the new sections of the bill are to be codified within current law.

SECTION 25 is a new code section providing that section 10 of this bill is void if HB 919 (i.e., the Department of Justice's license and permit bill) is not passed and approved.

SECTION 26 is a new code section providing that all sections of the bill, except section 10, are effective October 1, 1991. Section 10 is effective July 1, 1992.

STATE OF MONTANA
DEPARTMENT OF JUSTICE
GAMBLING CONTROL DIVISION

EXHIBIT #2
6 Mar 91
SB 427

Marc Racicot
Attorney General



2687 Airport Road
Helena, MT 59620-1424

TESTIMONY IN SUPPORT OF SENATE BILL NO. 427 (SB 427)

Submitted by Robert J. Robinson, Administrator
Department of Justice, Gambling Control Division
March 6, 1991

SB 427 is submitted by request of the Department of Justice and brings a number of policy issues to the Legislature that are the result of experiences and developments since the enactment of the Gambling Control Act (SB 431) of the 1989 Legislature. SB 431 created a broad framework for state regulation of gambling. As is often the case with major legislation, a number of details were overlooked and some effects were unintended. This bill brings several of those issues to the Legislature for resolution.

A brief explanation of the issues addressed follows in an overview of each section.

Section 1

Additions and modifications to definitions will be referenced as the substantive sections of the bill requiring definition changes are explained.

The definition of gambling is clarified to exclude a promotional game of chance. A promotional game of chance is defined as an activity which provides prizes without a purchase requirement.

Section 2 Issue - Disposal of property seized pursuant to a search warrant.

Although the Gambling Control Act refers to forfeiture (23-5-123, MCA), the act does not provide authority for a court to order forfeiture of contraband, illegal devices and related funds obtained pursuant to a search warrant. Statutes related to other types of criminal violations generally provide some direction in this area. This amendment gives the court authority to direct disposition of these items in the event of a conviction.

Sections 3 and 4 Issues - Public disclosure of gambling license information and authorization to provide tax data to other tax collection agencies and necessary information to other criminal justice agencies.

Section 23-5-115(6), MCA, currently prohibits the Department from disclosing any information obtained as a result of the license application or tax collection processes. The Department is being sued by several newspapers and news agencies to release all information contained in license files. The lawsuit is based upon an alleged conflict between the restrictions in 23-5-115(6), MCA, and the public's right to know as stated in Article II, section 9, of the Montana Constitution.

The new section would clarify what information could be released, but is generally limited to the names of the owners, the business name and address, the source of financing and types of permits applied for.

The Department would not provide, without court order, any other personal information, the amount of financing, or income or tax records.

Subsection (1)(f) would allow for the disclosure of public criminal justice information as that term is defined in the Criminal Justice Information Act, sections 44-5-101 through 44-5-515, MCA.

Section 2 also authorizes the Department to provide license and tax records to other criminal justice agencies or state or federal tax collection agencies. This exchange provision is consistent with provisions governing the Montana Department of Revenue relative to other tax reports. Currently, Department of Revenue and Internal Revenue Service agents are unable to access gambling tax data without court order or subpoena.

Section 5 and Section 1 Clarification that operation of an illegal gambling enterprise is a misdemeanor. Descriptions of illegal gambling device and enterprise in definitions.

The experience of the past year revealed that often an illegal gambling activity consists of more than possession of an illegal gambling device but may well consist of an illegal gambling scheme or enterprise in a broader sense. This amendment along with the amendments to the definition of illegal device and enterprise would make it clear that such a scheme or enterprise is treated in the same manner as an illegal device.

Section 1 amends the definitions of illegal gambling device and enterprise. These amendments reinstate previous statutory language that specifically identified illegal devices or enterprises while incorporating more modern language which generally describes a group of devices. This approach provides specific name identification of an illegal device or enterprise while retaining a general description to accommodate future innovations and the prohibition of all gambling not specifically authorized by Title 23, chapter 5.

Many in the gambling industry have sought clarification of what devices or activities were prohibited by the current language which generally states an illegal device or enterprise is a device or enterprise not authorized by statute or that violates a statute or rule of the Department.

Section 6 and 7 Issues. Clarifies license application submittal requirements, establishes an application processing fee, provides for Department approval of a gambling premises and establishes standards for premises approval.

These sections clarify that it is necessary to obtain a gambling operator's license to provide legal gambling opportunities to the public as well as specifically states that is necessary to submit a completed application to obtain a license.

This section also requires each applicant to pay a one time application fee adequate to cover the cost of processing the license and investigating the applicant's suitability for licensure.

In several instances during the past two years, the Department has been required to expend significant sums of money to complete an applicant background investigation. Most expenses are incurred in traveling to previous places of residence when some questionable or criminal interest has arisen in preliminary reviews.

Other states' licensing gambling operators require the applicants to cover the investigation expenses rather than passing that cost on to other licensees or the general public.

Subsection 3 makes it clear that the Department of Justice has the responsibility to approve a gambling premises and that it is not the responsibility of the Liquor Division of the Department of Revenue. Subsection 4 also clarifies that possession of multiple on-premises liquor licenses does not automatically entitle the holder to additional gambling operator licenses.

Section 7 is related to subsection 3 of Section 6 in that it provides specific standards that must be met to obtain a premise approval.

A new phenomenon that is occurring is referred to as "license stacking." "License stacking" is the acquisition and placement of multiple on-premises alcohol beverage licenses (all beverage and/or beer and wine) in a single room or establishment with the intent of obtaining multiple gambling operator's licenses. This would permit placement of more than the statutory quota of 20 video gambling machines in a single location.

Section 7 establishes specific criteria defining a premises. A premises would be required to have a unique address, external public entrance, and permanent walls and not be connected to other licensed establishments. If two or more licensed premises share internal entrances, then the premises cannot be operationally or financially interrelated.

The Department has recently litigated this issue in Missoula and will in the absence of this provision be faced with multiple lawsuits to determine what is and what is not a "premises." There are a number of facilities presently attempting to obtain multiple operator's licenses in hopes of becoming "grandfathered" establishments if this section is enacted into law.

Section 8 Clarifies that the Department must be notified when premises ownership changes.

The Department is required to investigate the qualifications of those involved in a gambling establishment. Quite often, ownership changes occur without the Division's knowledge.

This section requires the licensed operator to notify the Division before ownership changes to allow for investigation of the new owners.

Section 9 Issue - Non-licensed entities providing gambling.

State law prohibits sale, lease, rent or transfer of any gambling license. However, numerous licensees enter into agreements with independent contractors to provide certain types of gambling on the premises. This most often occurs with live card games.

The effect of these contracts is to assign or lease the gambling activity to an individual or firm that has not necessarily been subject to license review. Most of these situations result in a card game contractor paying the table permit fees and dealer wages and remitting a percentage of the profits or a set rental fee to the licensed operator. The operator does not control the game and is often unaware of the contractor's activities.

The Department proposal requires the licensed operator to take control of and be responsible for the gambling permitted to the licensee and reinforces the policy statement which prohibits leasing of a gambling permit or license.

Section 10 Issue - Consolidation of control of the gambling industry.

Section 10 renames the present operator's license as a premises license and creates a new type of license for a video gambling machine route operator that is separate from the present

manufacturer/distributor's license. Most importantly, this section prohibits ownership in businesses at different marketing levels (i.e., premises, route operator and manufacturer).

The intent of this section is to encourage competition by prohibiting vertical integration of the industry, that is control of gambling businesses from the manufacturing through the retail level.

This section does "grandfather" entities or persons holding licenses at multiple levels on January 1, 1991.

Section 11 Issue - Inspection authority. This section provides that the Department or local law enforcement agency has the authority to inspect an operator's, manufacturer's, or distributor's premises during normal business hours. Adequate inspection authority is essential to effective regulation.

Section 12 and 13 Issue - Promotional games prize limits.

This amendment limits promotional prizes for permitted gambling activities to the statutory limit for the game.

We are currently observing "promotional" or "free" games being offered that significantly exceed the statutory prize limits. Those promotional games are often packaged in such a manner as to essentially require persons desiring to play the "free" game to play the for-pay games. Another aspect of this situation is that only the larger commercial interests can provide these promotions thereby placing the smaller operations at risk.

Several bingo licensees have requested the Department to address this issue.

Sections 14, 15 and 16 Issue - Clarify and provide for Department inspection of electronic bingo and keno equipment for live games.

As electronic and computerized equipment for live keno and bingo becomes more prevalent in the market, there is more demand for the state to certify that the selection process is random, prizes awarded are within limits, and the tax reporting capabilities are accurate.

These devices are relatively new to the Montana market, and both manufacturers and prospective purchasers have asked the Department to certify their accuracy.

Sections 17, 18, 19, 20, 21, 22, 23 Issue - Legalization of Casino Nights.

These sections allow nonprofit organizations to conduct limited casino nights that provide only those types of live gambling activities that are presently legal in Montana. Currently the law

does not allow gambling at casino night events except at locations possessing a gambling operator's license. This has severely hampered social, fundraising opportunities for a variety of nonprofit organizations. This section would provide such opportunities on a limited scale for nonprofit organizations but would not permit banking card games or other casino games such as roulette or craps.

These traditional casino games are not authorized for nonprofit casino nights because of the implications such approval may have on gambling on Indian reservations due to application of the Indian Gaming Regulatory Act.

MR. CHAIRMAN AND MEMBERS OF THE
COMMITTEE;

I APPRECIATE THE OPPORTUNITY TO APPEAR
BEFORE YOU TODAY TO ASK FOR YOUR SUPPORT
FOR SECTION 4 OF SENATE BILL ⁴²⁷~~1007~~ WHICH, IF
PASSED, WOULD ALLOW THE MONTANA
DEPARTMENT OF JUSTICE TO DISCLOSE CERTAIN
INFORMATION TO THE INTERNAL REVENUE
SERVICE AND THE MONTANA DEPARTMENT OF
REVENUE FOR THE PURPOSES OF EFFECTIVE
TAX ADMINISTRATION.

LEGALIZED GAMBLING HAS BECOME A
MAJOR INDUSTRY IN THE STATE OF MONTANA.
IT IS ASSUMED THAT THE MAJORITY OF
GAMBLING ESTABLISHMENTS VOLUNTARILY
COMPLY WITH THE FEDERAL AND STATE
INCOME TAX LAWS BY PROPERLY REPORTING
INCOME FROM LEGALIZED GAMBLING.

EXHIBIT #3

3-6-91

SB 427

STATEMENT OF

ARNOLD D. WILEY

DISTRICT DIRECTOR

INTERNAL REVENUE SERVICE HELENA DISTRICT

BEFORE THE

MONTANA SENATE JUDICIARY COMMITTEE

FEBRUARY, 1991

HOWEVER, RECENT EXPERIENCE INDICATES THERE ARE THOSE WHO PREFER NOT TO COMPLY WITH FEDERAL INCOME TAX LAWS.

INFORMATION PRESENTLY RETAINED BY THE STATE DEPARTMENT OF JUSTICE WOULD BE VERY HELPFUL IN ADMINISTERING THE FEDERAL AND STATE TAX LAWS AND IN ESTABLISHING COMPLIANCE WITH THOSE LAWS IN MONTANA. THIS INFORMATION WOULD ASSIST THE INTERNAL REVENUE SERVICE AND THE MONTANA DEPARTMENT OF JUSTICE IN IDENTIFYING THOSE ESTABLISHMENTS AND ORGANIZATIONS WHO DO NOT APPEAR TO BE IN COMPLIANCE WITH FEDERAL AND STATE INCOME TAX LAWS. HISTORICALLY, CASH-INTENSIVE BUSINESSES HAVE THE GREATEST PROPENSITY FOR NON-COMPLIANCE WITH THE INCOME TAX LAWS.

SOME PROPRIETORS MAY BE REPORTING GROSS INCOME CORRECTLY IN FILING QUARTERLY RETURNS WITH THE STATE DEPARTMENT OF REVENUE WHILE NOT CORRECTLY REPORTING FEDERAL INCOME TAX. ALLOWING ACCESS TO THE DEPARTMENT OF JUSTICE INFORMATION WILL HELP IDENTIFY RETURNS THAT NEED TO BE EXAMINED, THEREBY REDUCING OR ELIMINATING EXAMINATIONS OF RETURNS THAT APPEAR TO BE IN COMPLIANCE WITH THE LAW.

THE DEPARTMENT OF JUSTICE CAN PROVIDE INFORMATION THAT WOULD ALLOW THE DEPARTMENT OF REVENUE AND THE IRS TO COORDINATE EXAMINATION EFFORTS. THIS WOULD SAVE BOTH GOVERNMENTS' RESOURCES AND, MORE IMPORTANTLY, REDUCE TAXPAYER BURDEN BY ELIMINATING DUPLICATE TAXPAYER CONTACTS FOR EXAMINATIONS AND INFORMATION.

HAVING THIS INFORMATION WILL MAKE OUR EFFORTS LESS CUMBERSOME AND LESS INTRUSIVE FOR EVERYONE INVOLVED.

IN ADDITION, THIS ACCESS TO INFORMATION WOULD ASSIST IN IDENTIFYING THE TRUE OWNERS OF GAMBLING ESTABLISHMENTS AND THOSE WITH FINANCIAL INTERESTS THEREIN.

OVER THE YEARS, CASH-INTENSIVE BUSINESSES HAVE BEEN USED TO LAUNDER MONEY FROM ILLEGAL VENTURES, PRIMARILY NARCOTICS. IT IS NOT UNCOMMON FOR ILLEGAL PROCEEDS FROM ONE STATE TO BE LAUNDERED THROUGH BUSINESSES IN ANOTHER STATE. INFORMATION ABOUT FINANCIAL INTERESTS AND MACHINE REVENUE WILL ASSIST US IN ASCERTAINING WHETHER OR NOT GAMING ESTABLISHMENTS IN MONTANA ARE BEING USED TO LAUNDER MONEY FROM ILLEGAL BUSINESSES.

I ASK YOUR SUPPORT TO ALLOW THE DEPARTMENT OF JUSTICE TO SHARE CERTAIN INFORMATION WITH THE INTERNAL REVENUE SERVICE AND THE MONTANA DEPARTMENT OF REVENUE FOR THE PURPOSE OF IMPROVED TAX ADMINISTRATION.

THE INFORMATION WE ARE REQUESTING ACCESS TO IS NOT INFORMATION CURRENTLY IN THE POSSESSION OF EITHER AGENCY -- AND IT IS INFORMATION THAT WOULD BE COSTLY TO GATHER. IN FACT, PRIOR TO THE DEPARTMENT OF JUSTICE BECOMING RESPONSIBLE FOR THIS INFORMATION, THE DEPARTMENT OF REVENUE SHARED MUCH OF IT WITH US AS PART OF OUR EXCHANGE AGREEMENT.

YOU SHOULD REST ASSURED THAT WE IN THE INTERNAL REVENUE SERVICE AND THE DEPARTMENT OF REVENUE HAVE A LEGAL AND MORAL OBLIGATION TO PROTECT THE CONFIDENTIALITY OF ALL INFORMATION FURNISHED TO US. WE TAKE THIS OBLIGATION VERY SERIOUSLY.

PASSAGE OF THIS LEGISLATION WOULD ENHANCE TAX ADMINISTRATION, INCREASE VOLUNTARY COMPLIANCE AND PROVIDE IMPROVED SERVICE TO THE TAXPAYING PUBLIC.

THANK YOU.

Montana

Association of
Churches

MONTANA RELIGIOUS LEGISLATIVE COALITION • P.O. Box 745 • Helena, MT 59624

PHONE: (406) 442-5761

EXHIBIT 7
6 Mar 91
SB 427

Date Submitted: March 6, 1991

Bill Number: Senate Bill 427

Submitted by: Harley E. Warner

WORKING TOGETHER:

American Baptist Churches
of the Northwest

Christian Churches
of Montana
(Disciples of Christ)

Episcopal Church
Diocese of Montana

Evangelical Lutheran
Church in America
Montana Synod

Presbyterian Church (U. S. A.)
Glacier Presbytery

Presbyterian Church (U. S. A.)
Yellowstone Presbytery

Roman Catholic Diocese
of Great Falls - Billings

Roman Catholic Diocese
of Helena

United Church
of Christ
Mt.-N. Wyo. Cont.

United Methodist Church
Yellowstone Conference

Chair, members of the committee, for the record I am Harley E. Warner. I represent the Montana Association of Churches.

The Montana Association of Churches supports strict governmental control of all gambling enterprises in Montana. As you know we also oppose any attempt to expand authorized gambling in Montana.

Senate Bill 427 does provide for more control of gambling in that it provides for release of some license and tax information. Several of the other provisions of this piece of legislation will help with the control of gambling, such as the limits related to the marketing levels one person or firm may be involved with.

This bill does provide some discouragement to further expansion of gambling.

We support Senate Bill 427.

AMENDMENTS TO SENATE BILL 427
Introduced Copy
Proposed by the Gaming Industry Association

SB 427
Exhibit #

1. Page 4, line 9.
Following: "is"
Insert: "predominantly"
Following: "contingent"
Strike: "in whole or in part"
2. Page 4, line 16.
Following: "intended"
Insert: "by the person or persons possessing or controlling the device"
3. Page 4, line 24.
Following: "department."
Strike remainder of subsection.
4. Page 5, line 14.
Following: "department."
Strike remainder of subsection.
5. Page 8, line 6.
Following: "application"
Strike: "and approved by the department"
Insert: "The premises must:
 (a) be a structure or facility that is clearly defined by permanently installed walls extending from floor to ceiling;
 (b) have a unique address assigned by the local government in which the premises is located;
 (c) have a public external entrance leading to a street or other common area; and
 (d) if the premises shares a common wall with another premises for which an operator's license has been issued, have the common wall permanently installed, opaque, and extending from floor to ceiling. The common wall may have one or more internal entrances adequate for ordinary ingress and egress."
6. Page 11, line 10 and 11.
Following: "business;"
Insert: "and"
Strike: subsection (d) in its entirety
Renumber: subsequent subsections
7. Page 11, line 12 through line 24.
Following: "applicant"
Strike: remainder of section through "service" on line 24
8. Page 13, line 16.
Following: "department;"
Insert: "and"

80421
Exhibit
6 Mar 91

9. Page 13, line 18 through line 24.
Following: "department"
Strike: "; and" on line 18 through "conducted" on line 24.
10. Page 14, line 2.
Following: "premises."
Insert: "The restriction of one operator's license per premises does not apply to a person who on January 1, 1991 was licensed to operate a business in a premises not meeting the requirements of 23-5-112(26), or to a person who has filed with the department on or before January 1, 1991 an application for an operator's license for a premises not meeting the requirements of 23-5-112(26). The department may not fail to renew an operator's license for such businesses, or deny an operator's license to such applicants, solely on the basis of the premises not meeting the requirements of 23-5-112(26)."
11. Page 14, line 22.
Strike: subsection (8) in its entirety
Re-number: subsequent subsections
12. Page 15, line 8.
Strike: section 7 in its entirety
Re-number: subsequent sections
13. Page 16, line 10.
Strike: sections 9 and 10 in their entirety
Re-number: subsequent sections
14. Page 19, line 13.
Strike: section 12 in its entirety
Re-number: subsequent sections
15. Page 20, line 2.
Following: "or"
Insert: "\$800 for each individual"
16. Page 20, line 6.
Following: "bingo"
Strike: "or keno"
17. Page 24, line 14.
Following: "prizes"
Insert: "Prizes may not exceed \$100 in value."
18. Amend title, codification instructions and effective dates to conform.

SB 427
3/6/91

WITNESS STATEMENT

To be completed by a person testifying or a person who wants their testimony entered into the record.

Dated this 6 day of MARCH, 1991.

Name: CHRIS KOLSTAD

Address: STAR ROUTE BOX 49
LEDGER, MT 59456

Telephone Number: 627-2223

Representing whom?

MT JAYCEES

Appearing on which proposal?

SB. 427

Do you: Support? Amend? X Oppose?

Comments:

WE WOULD LIKE TO HAVE THE BILL AMENDED AS FOLLOWS:
SECTION 18. PAGE 23

LINE 2 FROM (a) live card games authorized UNDER 23-5-311;
TO (a) live card games not to exclude poker & blackjack;

LINE 3 FROM (b) live bingo and Keno games; and
TO (b) live bingo and Keno games, raffles; and

LINE 4 FROM (c) raffles.
TO (c) any dice games and other mechanical games
of chance such as roulette but not to include
slot machines.

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY

March 6, 1991

EXHIBIT 6
SB 427
3/6/91

Chairman Pinsoneault and honorable members of the Judiciary committee.

I am Chris Kolstad and I am here to testify on section 18 of Senate Bill 427 regarding casino nights. I represent not only Jaycees from all across the state of Montana, but numerous other non-profit organizations as well. I am familiar with casino nights that have been run by the chamber of commerce in Shelby and in Conrad. The Hi-Line Health Service Foundation ran a casino night to raise funds for the Liberty County Hospital. Both the Chester and Ft. Benton High Schools have used casino nights as part of their post graduation night programs. The JI Close up program in Joplin has used casino games in conjunction with their fund raising carnival and the swim team in Choteau has also ran a similar function. As you can see casino nights are more common than a person realizes. Nearly every town within 60 miles from my home has a casino night of some sort.

For those of you who are not familiar with casino nights, let me explain briefly how they work. People who attend are given the opportunity to purchase play money. With this money they can gamble at the various gaming tables. When the casino closes, usually after three or four hours an auction is held and the person can buy merchandise that has been donated or bought by the sponsoring organization. No cash prizes are given out and the prizes rarely exceed \$20.00 in value. These casino nights were run to entertain as well as to raise money for community projects.

We feel that casino nights do not pose a threat to the state of Montana and would like to continue running them as we have in the past. We don't mind playing by your rules, but as Senate Bill 427 is currently written, we would only be able to play games that are already legal in Montana. This would take away their uniqueness and make them less alluring. From past experience I can tell you that it is not the game of poker that people come to play at a casino night. They can play poker any day of the year in Montana. They come to play games that normally they would have to leave the state to play. By eliminating these games from casino nights you will in all practical purposes put an end to casino nights. We could raise more money having a bake sale.

For the record we are not here to promote the legalization of gambling, after all if gambling were legal there would be no need to run casino nights. We are simply here to ask you to give us a fair shake. Thank-you for your consideration in this matter.


Chris Kolstad
Chester Jaycees

DATE _____

COMMITTEE ON

Necessary

SB 427

HB 102

HB 10J

H 22 221

VISITORS' REGISTER

[illegible]

MINUTES

MONTANA SENATE 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Dick Pinsoneault, on April 3, 1991, at 7:05 a.m.

ROLL CALL

Members Present:

Dick Pinsoneault, Chairman (D)
Bill Yellowtail, Vice Chairman (D)
Robert Brown (R)
Bruce Crippen (R)
Steve Doherty (D)
Lorents Grosfield (R)
Mike Halligan (D)
John Harp (R)
Joseph Mazurek (D)
David Rye (R)
Paul Svrcek (D)
Thomas Towe (D)

Members Excused: none

Staff Present: Valencia Lane (Legislative Council).

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Announcements/Discussion: Chairman Pinsoneault asked members of the Committee to review the resolution draft for HB 797 and to provide their comments to the Committee Secretary.

EXECUTIVE ACTION ON HOUSE BILL 776

Motion:

Discussion:

Valencia Lane explained Senator Towe's amendments (Exhibit #1).

Amendments, Discussion, and Votes:

Senator Harp made a motion to approve Senator Towe's amendments. The motion carried unanimously.

Valencia Lane stated that Senators Pinsoneault and Svrcek's amendments are essentially similar enough to merge.

Senator Crippen asked Senator Halligan if he were saying that the only way to meet the testing problem is to decriminalize homosexual consensual sex.

Senator Doherty commented that John Connor stated this is a very difficult crime to prosecute.

Chairman Pinsoneault stated that just because it isn't prosecuted doesn't mean it can't be.

Senator Doherty stated that the virus is not specific to homosexual men. He said Representative Lee's amendment should be looked upon as an attempt to justify what is there, medically.

Senator Rye stated that laws are passed reflective of values. He said he believes the Legislature needs to occasionally make a statement regarding what it values most, and that it should stay that way.

Senator Halligan said he somewhat agreed with Senator Rye, but the Constitution guarantees the right of privacy.

Recommendation and Vote:

Senator Svrcek made a motion that HB 451 BE TABLED. The motion failed 6-6 in a roll call vote (attached).

* * * * *

The meeting was recessed at 7:56 a.m. and reconvened at 12 noon.

* * * * *

EXECUTIVE ACTION ON SENATE BILL 427

Motion:

Discussion:

Amendments, Discussion, and Votes:

Senator Mazurek, Subcommittee Chairman, for SB 427, said he and Senators Brown, Svrcek, and Halligan met last week and on April 2, 1991 with all concerned parties (Gambling Control Division, Tavern Owners, Gaming Association, Don't Gamble with the Future, Association of Churches) to come up with proposed changes in the gaming law.

Lois Menzies, Gambling Control Division, Department of Justice, explained the amendments prepared by Valencia Lane from the First Reading copy of the bill (white). She said there are substantial amendments on page 2, line 8, for Departmental adoption of rules on sports tabs; Section 9 adds the definition of card games, illegal gambling devices, and non-profit organizations, and revises the definition of public gambling.

Ms. Menzies further stated that amendment #12 on page 3 adds subsection (3), a further definition of public gambling; amendments #13 and #14 revise the definition of raffles; amendments #16 and #17 refer to disclosure of information to the public; amendments #19 and #20 deal with illegal gambling devices and permit them to be displayed in public places if they are made permanently inoperable and are used for decorative purposes only.

Lois Menzies further advised the Committee that amendments #23 and #24 define premises as a structure facility clearly defined by permanently installed walls, having an address and no internal entrance if it is connected to a bar. She said this would prevent stacking. She said amendment #25 grandfathers the stacking issue where an application is applied for by December 31, 1990 and that it terminates June 20, 1996; amendment #26 creates a card room contractors license; amendment #27 strikes Section 10 in its entirety; amendment #38 includes new Sections 21-25, authorizing sports games.

Senator Mazurek interrupted the explanation of amendments to advise the Committee that amendments from this point come from HB 958 and HB 673 (pages 7-10 of Exhibit #7).

Lois Menzies continued, and said Section 28 permits the sale of machines; Section 29 provides a misdemeanor for participating in an illegal gambling enterprise; Section 10 clarifies the misdemeanor penalty concerning fraud or illegal operation; Section 31 adds minors, who can participate only in certain raffles; Section 32 is addressed on page 9 of Exhibit #7; Section 33 revised qualifications for licensure.

Ms. Menzies further stated that Section 34 is a new section; Sections 35-36 concern card dealers and require licensed dealers for pan or poker; Section 37 concerns social and commercial tournaments; Section 38 concerns exemptions from live bingo and keno tax and permit fees for fraternal, veterans, retirement and nursing homes, and for senior citizens centers.

Ms. Menzies stated the fee for keno is reduced to \$250; Section 41, on page 14, provides for weigh tickets in live keno games with a \$100 cap; Section 42 addresses raffles and clarifies existing statute; Sections 43-45 concerns sports pools, and eliminates the precise definition by making it more broad and generic, but with a \$5 cap on wagers and a \$500 cap on a win, and operators cannot keep any amounts wagered.

Ms. Menzies advised the Committee that Section 46 addresses placement of video gambling machines in rooms where alcoholic beverages are sold; Section 47 addresses theft from video gambling machines with exceptions if they are not paid by insurance or if law enforcement is not called; Section 47 also removes the internal quota on machines and allows 20 poker machines; Section 49 provides for fees on a pro-rated, quarterly basis; Section 50 addresses sale of gambling machines; Section 51 statutorily appropriates payments received by the Department of Justice for approval costs; Section 53 revises the statutory appropriation law to include retention of permit fees; 23-5-136, MCA, provides that one-half of fees go to the counties and the other half go to the General Fund.

Senator Mazurek made a motion to approve the amendments on Exhibit #7.

Senator Towe asked if sports betting is illegal (new Section 24). Lois Menzies replied this section was put in the bill to limit sports betting, as bookmaking is illegal.

Senator Mazurek stated that the broader definition of sports pools conforms to existing practices.

Chairman Pinsoneault asked if a wager on an NCAA game is prohibited. Lois Menzies replied it would be.

Senator Towe asked if office sports pools would be banned. Senator Mazurek replied they are allowed currently.

Senator Grosfield asked about "pan" in Section 35 on page 10. Lois Menzies replied that dealers must have a license. She stated that an operator with a liquor license who is not interested in operating a card game could contract with a card room contractor as an independent agent.

Senator Mazurek's motion to amend SB 427 carried unanimously.

Senator Mazurek made a motion to amend SB 427 to allow fishing derbies and wagers on natural occurrences. The motion carried unanimously.

Recommendation and Vote:

Senator Mazurek made a motion that SB 427 DO PASS AS AMENDED. The motion carried unanimously.

EXECUTIVE ACTION ON HOUSE BILL 451

Motion:

Senator Halligan made a motion that HB 451 BE CONCURRED IN as it came from the House.

ROLL CALL

SENATE JUDICIARY

COMMITTEE

52nd LEGISLATIVE SESSION -- 1991

Date 3 Apr 91

NAME	PRESENT	ABSENT	EXCUSED
Sen. Pinsoneault	✓		
Sen. Yellowtail	✓		
Sen. Brown	✓		
Sen. Crippen	✓		
Sen. Doherty	✓		
Sen. Grosfield	✓		
Sen. Halligan	✓		
Sen. Harp	✓		
Sen. Mazurek	✓		
Sen. Rye	✓		
Sen. Svrcek	✓		
Sen. Towe	✓		

Each day attach to minutes.

SENATE STANDING COMMITTEE REPORT

Page 1 of 28
April 3, 1991

MR. PRESIDENT:

We, your committee on Judiciary having had under consideration Senate Bill No. 427 (first reading copy -- white), respectfully report that Senate Bill No. 427 be amended and as so amended do pass:

1. Title, lines 8 and 9.

Following: "CHANCE" on line 8

Strike: remainder of line 8 through "GAMES" on line 9

2. Title, lines 14 through 17.

Following: line 13

Strike: line 14 through "LEVEL;" on line 17

3. Title, line 20.

Following: "NIGHTS;"

Insert: "EXPANDING PROVISIONS GOVERNING SPORTS POOLS; PRORATING VIDEO GAMBLING MACHINE PERMIT FEES; ALLOWING A DEDUCTION FOR THEFT FOR PURPOSES OF CALCULATING THE VIDEO GAMBLING MACHINE TAX; AUTHORIZING FANTASY SPORTS LEAGUES, FISHING DERBIES, AND WAGERING ON NATURAL OCCURRENCES; REQUIRING BIENNIAL REPORTS FROM THE DEPARTMENT OF JUSTICE AND GAMING ADVISORY COUNCIL; REVISING CERTAIN GAMBLING DEFINITIONS; CLARIFYING CERTAIN CRIMINAL GAMBLING OFFENSES; ESTABLISHING A PENALTY FOR SALE, ASSIGNMENT, LEASE, OR TRANSFER OF A LICENSE OR PERMIT; STATUTORILY APPROPRIATING VIDEO GAMBLING MACHINE TESTING FEES TO THE DEPARTMENT OF JUSTICE; REVISING PROVISIONS CONCERNING ANTIQUE SLOT MACHINES; CLARIFYING PROHIBITED ACTIVITIES FOR DEPARTMENT OF JUSTICE EMPLOYEES; CLARIFYING DISPOSITION OF PENALTIES, FINES, AND FORFEITURES; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ISSUE WARRANTS FOR DISTRAINT; ESTABLISHING THE CRIME OF SOLICITING ANOTHER PERSON TO PARTICIPATE IN AN ILLEGAL GAMBLING ENTERPRISE AND ESTABLISHING A PENALTY; PROHIBITING A MINOR FROM PARTICIPATING IN CERTAIN FORMS OF GAMBLING; REQUIRING LICENSE AND PERMIT REVOCATION UPON CONVICTION OF A FELONY GAMBLING OFFENSE; CREATING ADDITIONAL EXEMPTIONS FROM THE LIVE BINGO AND KENO TAX AND PERMIT FEE; CLARIFYING RAFFLE PROVISIONS; PROVIDING FOR SALE OF VIDEO GAMBLING MACHINES; REVISING CARD DEALER PROVISIONS; AUTHORIZING WAY TICKETS IN KENO GAMES; REMOVING THE 10-MACHINE LIMIT ON VIDEO DRAW POKER MACHINES; REVISING LICENSURE QUALIFICATIONS; PROVIDING FOR CARD GAME TOURNAMENTS; CLARIFYING PLACEMENT OF VIDEO GAMBLING MACHINES; ELIMINATING NET TAX ON LIVE BINGO AND KENO GAMES AND REVISING THE PERMIT FEE;"

Following: "SECTIONS"

Insert: "2-15-2021, 17-7-502,"

Following: "23-5-113,"

Insert: "23-5-114,"

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4. Title, line 21.
Following: "23-5-115,"
Insert: "23-5-136,"
Following: "23-5-152,"
Insert: "23-5-153, 23-5-154, 23-5-156, 23-5-158, 23-5-162, 23-5-176,"
Following: "23-5-177,"
Strike: "23-5-312,"
Insert: "23-5-308, 23-5-309,"
Following: "23-5-312,"
Strike: "AND"
Insert: "23-5-406, 23-5-407, 23-5-409,"
Following: "23-5-412,"
Insert: "23-5-413, 23-5-501, 23-5-503, 23-5-602, 23-5-603, 23-5-610, 23-5-611, 23-5-612, 23-5-625, AND 23-5-631,"

5. Page 2, line 1.
Strike: "16 and 23"
Insert: "13, 20, and 44"

6. Page 2, line 3.
Strike: "16"
Insert: "13"

7. Page 2, line 8.
Strike: "23"
Insert: "20"

8. Page 2, line 17.
Following: line 16 is allowed
Insert: "[Section 44] requires the department to adopt rules describing the types of sports pools authorized under 23-5-501, 23-5-503, and [section 44]."
Strike: remainder of line 17 through page 15, line 8

9. Page 3, line 24.
Following: line 23
Insert: "(7) 'Card game tournament' means a gambling activity for which a permit has been issued involving participants who pay valuable consideration for the opportunity to compete against each other in a series of live card games conducted over a designated period of time."

Renumber subsequent subsections

10. Page 4, line 24.
Page 5, line 15.
Strike: "but is not limited to"

11. Page 7, line 17. Following: line 16
Insert: "(24) "Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, senior citizens', or service organization established for purposes other than to conduct a gambling activity."

Renumber: subsequent subsections

12. Page 8, line 21.
Following: "organization"
Insert: "; or

(c) a place, building, or conveyance to which the public does not have access if players are publicly solicited or the gambling activity is conducted in a predominately commercial manner"

13. Page 8, line 22.
Following: "a"
Strike: "gift enterprise"
Insert: "form of lottery"

14. Page 8, line 23.
Following: "participant"
Strike: "buys a chance or chances"
Insert: "pays valuable consideration for a ticket to become eligible"
Following: "prize"
Insert: "Winners must be determined by a random selection process approved by department rule."

15. Page 11, line 10.
Following: ";"
Insert: "and"

16. Page 11, line 11.
Strike: subsection (d) in its entirety

17. Page 11, line 12.
Strike: "(e)"
Insert: "(d)"
Strike: "; and"
Insert: "."

18. Page 11, lines 13 through 15.
Strike: subsection (f) in its entirety

19. Page 13, lines 3 and 4.
Following: "located" on line 3
Strike: remainder of line 3 through "city" on line 4

20. Page 13, line 5.
Following: "operation"
Insert: "
(a) in a public or private museum; or
(b) any other public place if the device has been made
permanently inoperable for purposes of conducting a gambling
activity"

21. Page 13, line 25.
Strike: "Regardless"
Insert: "Except as provided in [section 7], regardless"

22. Page 14, line 23.
Strike: "for"
Insert: "who has submitted"
Following: "license"
Insert: "application on or after July 1, 1991,"

23. Page 15, line 8.
Strike: "The"
Insert: "Except as provided in subsection (4), the"

24. Page 15, line 24.
Following: "ceiling"
Insert: "and may not contain an internal entrance through which
public access is allowed"

25. Page 15, line 25 through page 16, line 5.
Following: "(4)" on line 25
Strike: remainder of line 25 through page 16, line 5
Insert: "A second operator's license may be issued or renewed
until June 30, 1996, for a person operating a gambling
activity on a premises that did not meet the requirements of
subsections (2) and (3) if:
(a) the second operator's license was issued to the
person on or before January 1, 1991; or
(b) (i) the application for the second operator's
license was received by the department on or before January
1, 1991;
(ii) a second on-premises alcoholic beverages license
was obtained for the premises on or before January 1, 1991;
and
(iii) substantial physical modifications to the
premises were made on or before January 1, 1991."

26. Page 16, lines 10 through 24.

Following: "Section 9." on line 10

Strike: remainder of line 10 through "machines." on line 24

Insert: "Card room contractor's license -- fee -- submission of contract. (1) It is a misdemeanor for a person to enter into a contract with a licensed operator to operate one or more live card game tables on the operator's premises without obtaining a card room contractor's license from the department."

(2) The department shall charge an annual license fee of \$150 for issuing or renewing a card room contractor's license. The department shall retain the fee for administrative purposes.

(3) The applicant shall submit at the time of application for a card room contractor's license a copy of the agreement entered into with the licensed operator."

27. Page 16, line 25 through page 19, line 3.

Strike: section 10 in its entirety

Renumber: subsequent sections

28. Page 19, line 13 through page 20, line 19.

Strike: sections 12 and 13 in their entirety

Renumber: subsequent sections

Insert: "pays value of the license to the operator."

29. Page 22, line 7.

Strike: "15" line

Insert: "12" is determined by a random number generator approved by the department."

30. Page 22, lines 12 and 13.

Following: "otherwise," on line 12

Strike: remainder of line 12 through "to" on line 13

Insert: "for purposes of"

31. Page 22, line 13.

Strike: "17" line

Insert: "14" line

Strike: "23" line

Insert: "20" line

32. Page 22, lines 13 and 14.

Strike: "1" line

(1) "Casino"

Insert: "casino" line

33. Page 22, line 16.

Strike: "18" line

Insert: "15" line

34. Page 22, lines 17 through 21. ~~Strike: subsection (2) in its entirety~~

35. Page 23, line 23.

Page 24, line 3.

Strike: "19"

Insert: "16"

36. Page 24, lines 6 and 12.

Strike: "20"

Insert: "17"

37. Page 24, line 24.

Strike: "17"

Insert: "14"

Strike: "22"

Insert: "19"

38. Page 25, line 2.

Following: line 1

Insert: "NEW SECTION. Section 21. Fantasy sports leagues

defined. As used in [sections 21 through 25], a "fantasy sports league" means a gambling activity conducted in the following manner:

(1) A fantasy sports league consists of a limited number of persons or groups of persons who pay an entrance fee for membership in the league. The entrance fee may include an administrative fee.

(2) Each league member creates a fictitious team composed of athletes from a given professional sport, such as baseball, basketball, or football. Player selection is conducted through random drawings or a bidding process.

(3) After the initial teams are selected, interim replacement of players may occur by trade or purchase. A specific fee, which may not exceed the total entrance fee, is charged for each transaction.

(4) A method, as defined by league rules, is devised to permit each team to compete against other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period.

(5) A member may be eligible to receive a payout based on the number of points accumulated. Payouts, which may be in the form of cash or prizes, are awarded according to league rules.

(6) Rules governing the conduct of the fantasy sports league must be provided in writing to each member.

NEW SECTION. Section 22. Fantasy sports leagues authorized. It is lawful to conduct or participate in a fantasy sports league.

NEW SECTION. Section 23. Payouts -- administrative fees charged by commercial establishments. (1) The total value of payouts to all league members must equal the amount collected for entrance, administrative, and transactions fees, minus payment for administrative expenses.

(2) If a commercial establishment charges an administrative fee for conducting a fantasy sports league, the fee for each participant may not be more than 15% of the amount charged as a participant's entrance fee.

NEW SECTION. Section 24. Sports betting prohibited -- applicability. [Sections 21 through 23] do not:

(1) authorize betting or wagering on the outcome of an individual sports event; or

(2) apply to gambling activities governed under chapter 4 or chapter 5, part 2 or 5, of this title.

NEW SECTION. Section 25. Violations. A person who purposely or knowingly violates or procures, aids, or abets in a violation of [sections 21 through 24] is guilty of a misdemeanor punishable under 23-5-161.

Section 26. Section 23-5-114, MCA, is amended to read:

"23-5-114. Department employees -- activities prohibited.

(1) ~~An employee of the department, a former department employee during the first 365 days following termination of employment, or any peace officer or prosecutor directly involved with the prosecution, investigation, regulation, or licensing of gambling, as designated by the attorney general, may not:~~

~~(1)(a) serve as an officer or manager of a corporation business or organization, other than a nonprofit corporation or organization, that conducts a gambling activity, other than as an officer of a nonprofit organization;~~

~~(b) be employed by a licensed operator in any capacity that requires assisting in conducting a gambling activity regulated under parts 1 through 6 of this chapter or maintaining records for the gambling activity;~~

~~(2) receive or share in, directly or indirectly, any profit of a gambling activity regulated by the department;~~

~~(3)(c) have a beneficial or pecuniary interest in a contract for the manufacture, lease, or sale of a gambling device, the conduct of a gambling activity, or the provision of~~

independent consultant services in connection with a gambling activity; or

(d) participate in a gambling activity governed by parts 1 through 6 of this chapter, except in performing assigned employment duties. An employee may participate in a gambling activity governed by part 10 of this chapter or chapter 4 of this title.

(2) The prohibitions in subsections (1)(a) through (1)(c) apply to a former designated department employee during the first year following termination from employment with the department if the employee was directly involved with the prosecution, investigation, regulation, or licensing of gambling immediately before termination."

Section 27. Section 23-5-136, MCA, is amended to read:

"23-5-136. Injunction and other remedies. (1) If a person has engaged or is engaging in an act or practice constituting a violation of a provision of parts 1 through 6 of this chapter or a rule or order of the department, the department may:

(a) issue a temporary order to cease and desist from the gambling activity, act, or practice for a period not to exceed 60 days;

(b) following notice and an opportunity for hearing, and with the right of judicial review, under the Montana Administrative Procedure Act:

(i) issue a permanent order to cease and desist from the act or practice, which order remains in effect pending judicial review;

(ii) place a licensee on probation;

(iii) suspend for a period not to exceed 180 days a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(iv) revoke a license or permit for the gambling activity, device, or enterprise involved in the act or practice constituting the violation;

(v) impose a civil penalty not to exceed \$10,000 for each violation, whether or not the person is licensed by the department; and

(vi) impose any combination of the penalties contained in this subsection (1)(b); and

(c) bring an action in district court for relief against the act or practice. The department may not be required to post a bond. On proper showing, the court may:

(i) issue a restraining order, a temporary or permanent injunction, or other appropriate writ;

(ii) suspend or revoke a license or permit; and

(iii) appoint a receiver or conservator for the defendant or the assets of the defendant.

(2) The department may issue a warrant for distraint against an operator who fails to pay a civil penalty imposed under subsection (1) or a tax imposed under 23-5-409 or 23-5-610. The department may issue the warrant for the amount of the unpaid penalty or for the amount of the unpaid tax, plus penalty and accumulated interest on the tax, and shall follow the procedures provided in 15-1-701 through 15-1-708.

+2+(3) (a) A civil penalty imposed under this section must be collected by the department and deposited in the state's general fund as required by distributed as provided in 23-5-123. The local government portion of the penalty payment is statutorily appropriated to the department, as provided in 17-7-502, for deposit to the county or municipal treasury.

(b) If a person fails to pay the civil penalty, the amount due is a lien on the person's licensed premises and gambling devices in the state and may be recovered by the department in a civil action."

Section 28. Section 23-5-153, MCA, is amended to read:

"23-5-153. Possession and sale of antique slot machines.

(1) For the purposes of this section, an antique slot machine is a mechanically or electronically operated slot machine that at any present time is more than 25 years old.

(2) Except as provided in subsection (3), an antique slot machine may be possessed, located, and operated only in a private residential dwelling.

(3) (a) An antique slot machine may be possessed or located for purposes of display only and not for operation in any public museum owned and operated by the state, a county, or a city.

(b) A licensed manufacturer-distributor or a person licensed under subsection (4) may possess and sell antique slot machines for purposes of commercially selling or otherwise supplying the machines.

(4) A person other than a licensed manufacturer-distributor may not sell more than three antique slot machines in a 12-month period without first obtaining from the department an annual license for selling the machines. The fee for the license is \$50 a year. The fee must be retained by the department for administrative purposes. The department may not issue a license under this subsection to a licensed operator.

(5) A person or entity legally possessing a slot machine under subsection (2) or (3) may sell or otherwise supply a machine to another person or entity who may legally possess a slot machine.

+4+(6) An antique slot machine may not be operated for any commercial or charitable purpose."

Section 29. Section 23-5-154, MCA, is amended to read:

"23-5-154. ~~Soliciting or persuading persons to play participation in illegal gambling device~~ activity prohibited. A person who purposely or knowingly advertises for or solicits another person to ~~play or engage in the~~ participate in an illegal gambling enterprise or use of an illegal gambling device is guilty of a misdemeanor and is punishable under 23-5-161."

Section 30. Section 23-5-156, MCA, is amended to read:

"23-5-156. Obtaining anything of value by fraud or operation of illegal gambling device or enterprise. (1) A person who ~~by gambling in an activity involving gambling~~ obtains money, property, or anything of value that does not exceed \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a misdemeanor and is punishable as provided in 23-5-161.

(2) A person who ~~by gambling in an activity involving gambling~~ obtains money, property, or anything of value that exceeds \$300 in value by misrepresentation, fraud, or the use of an illegal gambling device or an illegal gambling enterprise is guilty of a felony and is punishable as provided in 23-5-162."

Section 31. Section 23-5-158, MCA, is amended to read:

"23-5-158. ~~Minors not to participate -- penalty -- exception.~~ (1) ~~A~~ Except as provided in subsection (2), a person may not purposely or knowingly allow a person under 18 years of age to participate in a gambling activity.

~~(2)~~ A person who violates this ~~section~~ subsection is guilty of a misdemeanor and must be punished in accordance with 23-5-161.

(2) A person under 18 years of age may sell or buy tickets for or receive prizes from a raffle conducted in compliance with 23-5-413 if proceeds from the raffle, minus administrative expenses and prizes paid, are used to support charitable activities, scholarships or educational grants, or community service projects."

Section 32. Section 23-5-162, MCA, is amended to read:

"23-5-162. Criminal liabilities -- felony. (1) A person who purposely or knowingly violates a provision of parts 1 through 6 of this chapter, the punishment for which is a felony, may upon conviction be fined not more than \$50,000 or imprisoned for not more than 10 years, or both, for each violation.

(2) In addition to any penalty imposed under subsection (1), the department shall revoke all licenses or permits issued to the person under parts 1 through 6 of this chapter and may not issue the person another license or permit under parts 1 through 6 of this chapter."

Section 33. Section 23-5-176, MCA, is amended to read:

"23-5-176. Qualifications for licensure. (1) A person whom the department determines is qualified to receive a license under the provisions of this chapter, except for the provisions of part 10, may, based on information available to, required by, or supplied to the department under department rules, be issued a state gambling license.

(2) The Except as provided in subsection (4), the department shall issue a license unless the department can demonstrate that the applicant is:

(a) is a person whose prior financial or other activities or criminal record:

(i) poses a threat to the public interest of the state or;

(ii) poses a threat to the effective regulation and control of gambling; or

(iii) creates a danger of illegal practices, methods, or activities in the conduct of gambling or in the carrying on of the business and financial arrangements incidental to gambling; or

(b) has been convicted of a felony offense within 5 years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense; or

(c) is receiving a substantial amount of financing for the proposed operation from an unsuitable source. A lender or other source of money or credit that the department finds to meet the provisions of subsection (2)(a) may be considered an unsuitable source.

(3) The provisions of 37-1-203 and 37-1-205 do not apply to licensing determinations made under this section.

(4) The department may deny a license or permit to an applicant who has falsified a license or permit application. If the falsification is determined after the license or permit has been issued, the department may revoke the license or permit."

NEW SECTION. Section 34. Illegal sale, assignment, lease, or transfer of license -- penalty. A licensee who purposely or knowingly sells, assigns, leases, or transfers a license or permit in violation of 23-5-110 is guilty of a misdemeanor punishable in accordance with 23-5-161.

Section 35. Section 23-5-308, MCA, is amended to read:

"23-5-308. Card game dealers -- license. (1) A person may not deal cards in a live card game of panguingue or poker without being licensed annually by the department.

(2) The fee for the first year in which the license is effective is \$75, and the annual renewal fee is \$25. The fee may not be prorated.

(3) The department shall retain for administrative purposes the license fee charged for the issuance of a dealer's license.

(4) A licensed dealer shall have on his person, and display upon request, his dealer's license when he is working as a dealer.

(5) (a) The department shall adopt rules to implement temporary licensing procedures until a permanent license is issued to a dealer.

(b) The rules must provide that:

(i) a temporary license may be obtained at the place where a person locally applies for a driver's license; and ~~that~~

(ii) the receipt received upon mailing by certified mail an a completed license application for a permanent license and the fee required under subsection (2) by certified mail, return receipt requested, also constitutes a temporary license.

(c) The department may not assess a fee for the temporary license."

Section 36. Section 23-5-309, MCA, is amended to read:

"23-5-309. ~~Presence and control of dealer~~ Requirements for conducting card games. (1) ~~A~~ Except as provided in [section 37], ~~a live card game may not must be played except on a live card game table in the presence and under the control of a licensed dealer for which a permit has been issued and on the premises of a licensed operator.~~

(2) A live card game of panguingue or poker must be played in the presence and under the control of a licensed dealer."

NEW SECTION. Section 37. Tournaments. (1) Subject to the department's approval, a licensed operator who has a permit for placing at least 1 live card game table on his premises may conduct up to 12 live card game tournaments a year on his premises. Each tournament may be conducted for no more than 5 consecutive days. If an operator conducts more than one tournament a year, at least 7 days must lapse between the conclusion of one tournament and the beginning of the next tournament.

(2) (a) At least 10 days before the start of a tournament, the operator shall submit to the department an application for a tournament permit. The permit application must be accompanied by a \$10 fee. The department shall retain the fee for administrative purposes.

(b) If a tournament is to be conducted on the premises of more than one licensed operator, each operator shall submit a permit application and processing fee. The permit is applied toward each operator's annual 12-tournament limit.

(3) Permits for placement of additional live card game tables, as provided in 23-5-306, are not required for additional tables authorized under a tournament permit.

(4) Tournament participants must be provided with a copy of the tournament rules before the start of the tournament. A copy of the rules must be posted in a conspicuous location in each area where the tournament is conducted.

(5) A person must be present on the premises during the tournament to oversee the conduct of the card games and to settle disputes among players. This person may be a dealer licensed under 23-5-308.

(6) A licensed operator may charge a tournament participant an entry fee, which may include a fee to cover expenses incurred in conducting the tournament. A participant who has been eliminated from competition during the tournament may reenter the tournament by paying an additional fee if permitted to do so under tournament rules. A rake-off may not be taken during a tournament card game.

(7) The face value of the chips used does not govern the value of the pot awarded at the end of the tournament.

(8) The provisions of this part and the department rules governing live card games apply to live card games conducted as part of a tournament unless otherwise provided.

Section 38. Section 23-5-406, MCA, is amended to read:

"23-5-406. Exempt charitable organizations and facilities.

(1) (a) An organization qualified for granted an exemption under 26 U.S.C. 501(c)(3) and, (c)(4), (c)(8), or (c)(19):

(i) on or before January 15, 1989, is exempt from the taxation and license fees the permit fee imposed by this part. An organization qualified for exemption under that section;

(ii) after that date January 15, 1989, is exempt from taxation under, and need only pay one-half the license fees under, permit fee imposed by this part if the organization carries on gambling activities for no more than 60 days a calendar year and if the

504; 19-9-702; 19-9-1007; 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513; 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111; 20-9-361; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501; 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121; 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123; 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215; 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No. 861, Laws of 1985.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for such payments. (In subsection (3), pursuant to sec. 10, Ch. 664, L. 1987, the inclusion of 39-71-2504 terminates June 30, 1991.)

Section 53. Section 2-15-2021, MCA, is amended to read:

"2-15-2021. Gaming advisory council -- allocation -- composition -- compensation -- ~~annual~~ biennial report. (1) There is a gaming advisory council.

(2) The gaming advisory council is allocated to the department for administrative purposes only as prescribed in 2-15-121.

(3) The gaming advisory council consists of nine members. One member must be from the senate, and one member must be from the house of representatives. The senate committee on committees and the speaker of the house of representatives shall appoint the legislative members of the council. The seven remaining members must be appointed by the department, with one representing the public at large, two representing local governments, one being a Native American, and three representing the gaming industry.

(4) Each gaming advisory council member is appointed to a 3-year term of office, except that three of the first-appointed original members shall serve a 1-year term, three (including both legislative members) shall serve a 2-year term, and three shall serve a 3-year term. A member of the council may be removed for good cause by the appointing body provided for in subsection (3).

(5) The gaming advisory council shall appoint a chairman from its members.

(6) Legislative members of the gaming advisory council are entitled to compensation and expenses, as provided in 5-2-302, while the council is meeting. The remaining members are entitled to travel, meals, and lodging expenses as provided for in 2-18-501 through 2-18-503. Expenses of the council must be paid from licensing fees received by the department.

(7) The gaming advisory council shall, within its authorized budget, hold meetings and incur expenses as it considers necessary to study all aspects of gambling in the state.

(8) (a) The gaming advisory council shall submit ~~an annual~~ a biennial report to the department, at a time designated by the department, with recommendations for amendments to the gambling statutes, the need for additional or modified department rules, the clarification of existing rules, and other recommendations on the operation of the department or any other gambling-related matter.

(b) The ~~annual~~ biennial report required under subsection (8)(a) must be affixed to the ~~annual department~~ report on gambling in the state that the department submits that year. The department and council shall submit the two most recent department and council reports to each of the next two regular sessions of the legislature.

(c) The council may submit interim reports to the department as the council considers necessary.

(d) The council shall meet with the department upon request of the department.

(e) The department shall meet with the council upon request of the council.

(9) The department shall give each council member notice and a copy of each proposed change in administrative rules relating to gambling. The notice and copy must be given at the time a notice of proposed rules changes is filed with the secretary of state. The council shall review the proposal, may comment on it, and may attend any hearing on the proposal. The department shall consider any comment by any council member or by the council as a whole prior to adopting the proposed change."

Renumber: subsequent sections

39. Page 25, line 4.

Strike: "11, and 14 through 23"

Insert: "25, and 34"

40. Page 25, line 5.

Strike: "17"

Insert: "14"

41. Page 25, line 6.

Strike: "23"

Insert: "20"

Following: "]"

Insert: "and [sections 21 through 25]"

Following: "are"

Insert: "each"

42. Page 25, lines 7 and 8.

Following: "chapter 5,"

Strike: "part 1,"

43. Page 25, line 8.

Following: "7 through"

Strike: "11, and 14 through 23"

Insert: "25, and 34"

44. Page 25, line 9.

Following: line 8

Insert: "(2) [Section 37] is intended to be codified as an integral part of Title 23, chapter 5, part 3, and the provisions of Title 23, chapter 5, part 3, apply to [section 37].

(3) [Section 44] is intended to be codified as an integral part of Title 23, chapter 5, part 5, and the provisions of Title 23, chapter 5, part 5, apply to [section 44]."

45. Page 25, lines 14 through 16.

Strike: section 25 in its entirety

Renumber: subsequent section

46. Page 25, lines 18 through 20.

Strike: subsections (1) and (2) in their entirety

Insert: "(1) [Section 26 and this section] are effective on passage and approval.

(2) [Sections 1 through 25 and 27 through 54] are effective July 1, 1991."

POSSIBLE REVISIONS TO SENATE BILL NO. 427

SB 427
3 April 91

Prepared by the Gambling Control Division
April 2, 1991

SECTION 1 amends the general definition section of the gambling laws to:

- (1) exclude a promotional game of chance from the definition of gambling (23-5-112(10), MCA);
- (2) provide specific examples of illegal gambling devices and illegal gambling enterprises (23-5-112(14) and (15), MCA) [ELIMINATE "BUT IS NOT LIMITED TO" ON PAGE 4, LINE 24 AND PAGE 5, LINE 15]; and
- (3) define a promotional game of chance as a scheme for disposing of property by chance among persons who have not paid or are not expected to pay valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property (23-5-112(27), MCA).

SECTION 2 amends 23-5-113, MCA, to allow a court to order, upon conviction for a gambling violation, the forfeiture of property seized by a Department of Justice agent during a lawful search.

SECTION 3 amends 23-5-115, MCA, to permit the Department of Justice to disclose certain information obtained in the gambling application or tax reporting processes as provided in section 4.

SECTION 4 is a new code section addressing the authority of the Department of Justice to disclosure information. Subsection (1) permits the Department to disclose the following information from a license or permit application:

- (1) the applicant's name;
- (2) the address of the business where the activity under the license or permit is to be conducted;
- (3) the name of each person having an ownership interest in the business;

- ~~(4) the applicant's source of financing;~~
- (5) types of permits requested by the applicant; and
- ~~(6) any other information that the Department, after balancing the public's right to know against the applicant's right to privacy, considers suitable for disclosure.~~

Subsection (2) permits the Department to disclose the above information plus any other relevant information to:

- (1) a federal, state, city, county, or tribal criminal justice agency; or
- (2) the Montana Department of Revenue or the federal Internal Revenue Service.

SECTION 5 amends 23-5-152, MCA, to make it a misdemeanor offense to operate an illegal gambling enterprise. The section further provides that an illegal gambling device may be possessed or located in a public OR PRIVATE museum for display purposes only.

*DRAFT
LANGUAGE*

SECTION 6 amends 23-5-177, MCA, to:

- (1) require the Department of Justice to approve the premises in which the gambling activity is to be conducted before issuing an operator's license;
- (2) prohibit the Department from issuing more than one operator's license per premises, regardless of the number of on-premises alcoholic beverage licenses that have been issued for the premises;
- (3) impose a one-time operator's license application processing fee FOR APPLICATIONS SUBMITTED ON OR AFTER JULY 1, 1991, to cover the cost incurred by the Department in determining whether the applicant qualifies for licensure.

SECTION 7 is a new code section establishing requirements that a premises must meet before the Department of Justice may issue an operator's license. SUBSECTION (4), WHICH CONCERNS "FINANCIALLY OR OPERATIONALLY INTERRELATED" PREMISES, IS STRICKEN AND REPLACED WITH LANGUAGE PROHIBITING TWO ADJOINING PREMISES WITH OPERATOR'S LICENSES FROM HAVING AN INTERNAL ENTRANCE THROUGH WHICH THE PUBLIC HAS ACCESS. A PREMISES

LICENSED ON OR BEFORE JANUARY 1, 1991, THAT DOES NOT MEET THE REQUIREMENTS FOR PREMISES APPROVAL MAY CONTINUE TO OPERATE UNTIL JUNE 30, 1996, AND THEN MUST COME UNDER COMPLIANCE. LIKEWISE, A PERSON APPLYING FOR AN OPERATOR'S LICENSE ON OR BEFORE JANUARY 1, 1991, FOR A PREMISES THAT DOES NOT MEET THE PREMISES APPROVAL REQUIREMENTS MAY BE ISSUED A LICENSE IF: (1) AN ON-PREMISES ALCOHOLIC BEVERAGES LICENSE FOR THE PREMISES WAS OBTAINED BEFORE JANUARY 1, 1991; AND (2) SUBSTANTIAL PHYSICAL MODIFICATIONS TO THE PREMISES WERE COMPLETED BEFORE JANUARY 1, 1991. SUCH PREMISES MUST COME UNDER COMPLIANCE BY JUNE 30, 1996.

SECTION 8 is a new code section requiring an operator to notify the Department of Justice before transferring any ownership interest in his premises.

SECTION 9 is a new code section requiring:

- ~~(1) a person who is involved in conducting a gambling activity on an operator's premises to be an employee of the operator; and~~
- ~~(2) all revenue derived from conducting a gambling activity on an operator's premises to first accrue to the operator.~~

~~The requirements listed above do not apply to a manufacturer or distributor who furnishes video gambling machines to an operator or to revenue derived from the operation of video gambling machines.~~ ESTABLISHING AN INDEPENDENT CARD ROOM CONTRACTOR LICENSE. [LANGUAGE PROPOSED BY GCD AND GIA]

~~SECTION 10 is a new code section that is tied to House Bill No. 919 (HB 919), a gambling license and permit bill introduced at the Department of Justice's request.~~

~~HB 919 breaks a manufacturer-distributor's license into three separate licenses: a manufacturer's, distributor's, and route operator's. In addition, HB 919 renames an~~

~~operator's license as a premises license. Based on this new classification of licenses, subsection (1) of section 10 of this bill provides that issuance of each of the following licenses for operating a business constitutes a different marketing level:~~

- ~~(1) a premises license;~~
- ~~(2) a route operator's license; and~~
- ~~(3) a manufacturer's or distributor's license.~~

~~Subsection (2) of section 10 prohibits a person who has obtained a gambling license from:~~

- ~~(1) obtaining another license to operate a business at a different marketing level;~~
- ~~(2) having a substantial interest in another business operating at a different marketing level;~~
- ~~(3) allowing an officer of his business to have a substantial interest in another business operating at a different marketing level;~~
- ~~(4) employing a person who is also employed by another business operating at a different marketing level; or~~
- ~~(5) allowing another business operating at a different marketing level or a person with a substantial interest in the business to have a substantial interest in his business.~~

~~Subsection (3) defines the term "substantial interest".~~

~~Subsection (4) is a "grandfather" clause that exempts from the provisions of section 10 those persons who on January 1, 1991, were licensed by the Department of Justice to operate businesses at different marketing levels.~~

SECTION 11 is a new code section that permits the Department of Justice or local law enforcement officials to inspect a premises where a gambling activity is being conducted or a facility where gambling devices are manufactured or distributed.

SECTION 12 amends 23-5-312, MCA, to subject a promotional game of chance involving a live card game (i.e., a card game in which no consideration is paid to participate) to a prize

~~limit of \$300. The same prize limit is imposed on live card games in which consideration is paid.~~

~~SECTION 13 amends 23-5-412, MCA, to subject a promotional game of chance involving bingo or keno (i.e., a bingo or keno game in which no consideration is paid to participate) to a prize limit of \$100 per card. The same prize limit is imposed on bingo and keno games in which consideration is paid.~~

SECTION 14 is a new code section requiring a person who manufactures or supplies electronic bingo or keno equipment to obtain an annual manufacturer's license from the Department of Justice. The license fee is \$1,000. In addition to the license fee, the Department may charge a one-time application fee to cover the cost of processing the original license. The license and processing fees are retained by the Department for administrative purposes.

SECTION 15 is a new code section requiring a licensed manufacturer to submit to the Department of Justice for examination a prototype of any electronic bingo or keno equipment intended for use in the state. The manufacturer must pay the anticipated examination costs. After completing the examination, the Department may approve, disapprove, or conditionally approve use of the equipment.

SECTION 16 is a new code section authorizing the Department of Justice to adopt rules describing the electronic bingo and keno equipment that may be approved for use in the state.

SECTION 17 is a new code section defining the terms "casino night" and "nonprofit organization".

SECTION 18 is a new code section authorizing a nonprofit organization to conduct a casino night that may offer the following gambling activities:

- (1) live card games authorized under 23-5-311, MCA (bridge, cribbage, hearts,

panguingue, pinochle, pitch, poker, rummy, solo, and whist);

- (2) live bingo and keno games; and
- (3) raffles.

SECTION 19 is a new code section describing the process for applying for a casino night permit. The permit fee is \$25.

SECTION 20 is a new code section authorizing the Department of Justice to issue to a nonprofit organization one casino night permit per year. The permit fee is retained by the Department for administrative purposes.

SECTION 21 is a new code section imposing certain requirements on conducting casino nights (e.g., maximum duration of 12 hours, merchandise prizes only, etc.).

SECTION 22 is a new code section exempting gambling activities conducted during a casino night from the licensure and other regulatory requirements imposed on live card games, live bingo, live keno, and raffles. *Need to allow 5% prizes.*

*Limit to
per & top.*

SECTION 23 is a new code section authorizing the Department of Justice to adopt rules to administer the casino night provisions.

SECTION 24 is a new code section indicating where the new sections of the bill are to be codified within current law.

~~SECTION 25 is a new code section providing that section 10 of this bill is void if HB 919 (i.e., the Department of Justice's license and permit bill) is not passed and approved.~~

SECTION 26 is a new code section providing that all sections of the bill, ~~except section 10,~~ are effective October 1, 1991. ~~Section 10 is effective July 1, 1992.~~

POSSIBLE ADDITIONS FROM OTHER BILLS:

- 6673
1. Prorating video gambling machine permits (section 44 of HB 673)
 2. Providing a tax credit for money stolen from video gambling machines (similar in part to amendment to 23-5-610, MCA, adopted by House Judiciary Committee)
 3. Legalizing fantasy sports leagues (sections 53 through 57 of HB 673)
 4. Providing a limited expansion of sports pools to include those pools in which the competitors are randomly assigned to participants (sections 36 through 39 of HB 673 as adopted by House Judiciary Committee)
-
- 958
5. Requiring biennial, rather than annual, reports from the Gambling Control Division and Gaming Advisory Council (section 1 of HB 958)
 6. Revising definition of "public gambling" (section 2(31) of HB 958))
 7. Clarifying that it is a criminal offense for a person in an activity involving gambling to obtain anything of value by misrepresentation, fraud, or the use of an illegal gambling device or enterprise (section 8 of HB 958)
 8. Making it a misdemeanor for a gambling licensee to sell, assign, lease, or transfer a license or permit (section 13 of HB 958)
 9. Statutorily appropriating video gambling machine testing payments to Department of Justice (section 28 of HB 958)
 10. Permitting a person or entity who may legally possess an antique slot machine to sell the machine and providing for the commercial sale of antique slot machines (section of

*Clarify the underlying intent
in not continued.*

6 of HB 958 plus amendment introduced by sponsor)

11. Defining the term "nonprofit organization (section 2 and 3 of HB 673; section 2 of HB 958)
12. Clarifying prohibited activities for Department of Justice employees (section 4 of HB 673; section 3 of HB 958)
13. Clarifying disposition of penalties, fines, and forfeitures (section 1 of HB 134)
14. Permitting Department of Justice to issue warrants for distraint (section 7 of HB 673; section 5 of HB 958)
15. Making it a misdemeanor for a person to solicit another person to participate in an illegal gambling enterprise (section 9 of HB 673; section 7 of HB 958)
16. Prohibiting a minor from participating in all forms of gambling except noncommercial raffles (section 10 of HB 673 as amended by the House Judiciary Committee)
17. Requiring revocation of all gambling licenses and permits upon conviction of a felony gambling offense (section 11 of HB 673; section 10 of HB 958)
18. Clarifying existing exemptions to the live bingo and keno tax and permit fee and extending exemptions to veterans' and fraternal organizations, retirement homes, and senior citizen centers (section 32 of HB 673; section 18 of HB 958)
19. Revising definition of "raffle" (sections 2 and 3 of HB 673; section 2 of HB 958)
20. Clarifying raffle provisions (section 35 of HB 673; section 21 of HB 958)

21. Providing for sale of video gambling machines (section 46 of HB 673; section 27 of HB 958)
22. Requiring a card dealer's license only if a person intends to deal cards in a game of panguingue or poker (sections 18 and 19 of HB 673; section 15 of HB 958)
23. Requiring a game of panguingue or poker to be played under the control of a licensed dealer (sections 20 and 21 of HB 673; section 16 of HB 958)
24. Authorizing the use of way tickets in keno games (section 34 of HB 673; section 20 of HB 958)
25. Removing the ten-machine limit on draw poker machines but retaining the cap of 20 video gambling machines per premises (section 43 of HB 673; section 25 of HB 958)
26. Revising licensure qualifications (section 12 of HB 673 as adopted by House Judiciary Committee with addition of prohibiting issuance of a license if applicant is on deferred prosecution for committing a felony offense or has falsified an application)
27. Providing for card game tournaments (section 31 in HB 673 as adopted by the House Judiciary Committee)
28. Clarifying placement of video gambling machines (section 40 of HB 673 as adopted by the House Judiciary Committee)
29. Eliminating net tax on live bingo and keno and provide for a \$250 permit fee on both games (section 19 of HB 958 and section 33 of HB 673)

PROPOSED AMENDMENT TO SENATE BILL NO. 427

Ex# 7
3 Apr 9
SB 42

1. Page 25.

Following: line 1

Insert: "NEW SECTION. Section 24. Fishing derbies and wagering on natural occurrences. (1) The following are authorized gambling activities:

(a) a fishing derby in which two or more persons pay valuable consideration for an opportunity to win a prize for the species, size, weight, or otherwise identified fish caught in a fishing event.

(b) wagering on the outcome of a natural occurrence in which two or more persons pay valuable consideration for an opportunity to win a prize by most accurately predicting the date or time of an event resulting from a climatologic or meteorologic activity.

(2) Except as provided in subsection (3), all consideration paid to participate in a gambling activity authorized in subsection (1) must be paid to the winners.

(3) A nonprofit organization sponsoring a gambling event authorized in subsection (1) may retain up to 50% of the total amount paid to participate.

(4) This section does not apply to a gambling activity conducted under chapter 4 or chapter 5, part 2 or 3 of this title."

Renumber: subsequent sections

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 52nd LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By Chairman Bill Strizich, on April 11, 1991, at 10:15 a.m.

ROLL CALL

Members Present:

Bill Strizich, Chairman (D)
Vivian Brooke, Vice-Chair (D)
Arlene Becker (D)
William Boharski (R)
Dave Brown (D)
Robert Clark (R)
Paula Darko (D)
Budd Gould (R)
Royal Johnson (R)
Vernon Keller (R)
Thomas Lee (R)
Bruce Measure (D)
Charlotte Messmore (R)
Linda Nelson (D)
Jim Rice (R)
Angela Russell (D)
Jessica Stickney (D)
Howard Toole (D)
Tim Whalen (D)
Diana Wyatt (D)

Members Excused: Rep. Boharski, Rep. Rice, and Rep. Russell

Staff Present: John MacMaster, Leg. Council Staff Attorney
Jeanne Domme, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

HEARING ON SB 427 DEPT. OF JUSTICE GAMBLING REG. AND NEW GAMBLING BILL

Presentation and Opening Statement by Sponsor:

SEN. GAGE, SENATE DISTRICT 5, stated that parts of the House bills that dealt with gambling are in SB 427. This bill is a product of a tremendous amount of give and take from all parties

involved. We came to a compromise with this bill and it is in a very fragile state. I would hope that you keep this in mind when going over the bill and when amendments are offered in executive action. I have handed out a summary of the bill and some technical amendments by the Justice Department. EXHIBIT 1 & 2. I will let Bob Robinson go over the bill for the committee.

Proponents' Testimony:

Bob Robinson, Administrator - Gambling Control Division, stated there are a couple of areas that I should talk about because they are different. Most of the provisions in this bill were taken from HB 673 and HB 958. In section nine there is a new license section that allows for card room contractor. One area of the bill eliminates a potential problem in section 55. Two other clarifications are in the area of social gambling. One is fishing derbies and the other is wagering on natural occurrences. The amendments handed out by Sen. Gage are mostly technical. The only one that has any substance to it is on page 52, line 10, that changes "may" to "must" in the definition of how a sports pool is run.

The Department of Justice feels it is a good bill and will clarify many things for the next two years and eliminate some of the problems we have had in the past two years.

Harley Warner, Montana Association of Churches, stated several individuals have worked long and hard on reaching the conclusion you see before you. There are some things in this bill as amended that each member agreed to, might have some strong feelings that we don't agree totally with each individual item. This is a compromise bill and therefore we support this bill. It is a good bill. It does not increase gambling in Montana or expand gambling in Montana. We, therefore, rise in support of SB 427.

Opponents' Testimony:

REP. DAILY, HOUSE DISTRICT 69, stated I am testifying against SB 427 for a couple of reasons. One is because of the way sports tabs were incorporated into the bill. Two is because I was never notified that HB 503, which I carried regarding sports tabs, would become part of this compromise bill. You have all heard what sports tabs do but I would like to explain it again in an effort to convince you to amend this bill so they will be included as a legitimate form of gambling in Montana.

Sports tabs and sports pools are very similar. In sports pools there are 100 squares. A person signs a square when they purchase a chance at the board. After the board is full then the winning number is drawn and posted. On a sports tabs board there are 100 tabs. That is the basic difference. The big difference is that on a sports tab board you receive your number when you

buy your tabs and on sports pool you don't know your number until the board is full. HB 503 provided that the person selling the sports tab board is allowed to retain 10% of the payoff for administrative purposes. The reason for this is because when you sell sports tabs there are occasions when you don't sell all the tabs. The purpose of the 10% commission is not for the business or the person selling the board to make a profit, it is to make sure the person won't lose money on the board. I think the group that made the compromise bill deleted this portion simply because they did not understand sports tabs. People don't play sports tabs to make large amounts of money, it just doesn't happen. This is a recreational form of gambling. Usually, if they do make a profit, they may lose that profit on the next tab board they sell. I ask you to amend this bill because there are some amendments I am sure you will adopt for this bill and I ask that this be one of them.

Questions From Committee Members:

REP. BROOKE asked Mr. Robinson if you would address three concerns of mine? Sports tabs, fantasy sports leagues, and tournaments. Mr. Robinson stated originally HB 503 there was a \$1.00 per board tax on the pull tab boards. Basically, we have no idea how many boards are used in Montana. Sports tabs will be operated just like sports pools the way the bill is written now. It provides for 100% of payoffs to the players with the exception of the cost of the board. There is no basis for a tax to be levied. I am not sure that we would really say there is going to be much of an increase in our regulatory responsibility due to these sports tabs or variations of the sports pools. The pools as proposed in SB 427 and in HB 503 as a business come on. It is a way to get someone into your establishment to have a beer or sandwich and play the tabs. They weren't considered a profit making side so we were not in any position to consider suggesting taxing it.

Basically, what fantasy football is an event where people who know each others get together and pick an imaginary ball club and one of them has a mechanism to keep track of points scored, touchdowns, interceptions, all statistics. Usually a prize is all paid out to the players. There is a provision for the house to pay its administrative costs.

In card game tournaments there is a minor fee of \$10 for somebody who applies for a card game in tournament for permit. The can only be held in establishments that already have a live card table already. It allows them to hold a tournament, put a sign up for the public announcing it's time and place. We haven't had any problems with regulating tournaments to this point.

REP. BROOKE said if we retain the bill as it is with sports tabs as they are outlined in SB 427, it is strictly a promotional game. Is that correct? Mr. Robinson said that was not a part of the original compromise that everybody agreed on in SB 427. Sen.

Mazurek said if the sports tabs are going to be legalized then they should be the same style as sports pools and he made the motion to put this in as it is here.

REP. BROOKE stated the Rep. Daily talked about his proposed amendment concerning the sports tabs and the percentage the establishments owner would keep. He used the argument that sometimes the person doesn't sell all the tabs. Would you tell me if the owner doesn't sell all the tabs, wouldn't he have more chance of not having to pay out? Mr. Robinson said the seller would effectively become the buyer of the remaining tabs. He would have the same 1 in 100 chance as anybody else does that is on the board.

REP. BROWN asked REP. DAILY "Do you have any amendments?" REP. DAILY said he did and would give them to Rep. Brown.

REP. BROWN asked REP. DAILY is it the case in your original bill you had a dollar tax on each of the boards to offset the 10% potential loss of the establishment on each of those boards? Also I would ask you to address Rep. Brooks question regarding the tavern having the opportunity to win. REP. DAILY said the bill we had in the House did have a dollar tax on every sports tab board sold in Montana. That fee would be collected by manufacturers in Montana. Sports tab boards are made in Montana. The price of the sports tab board is \$4.00. If you have \$100 pool there would be the possibility the business would make \$5.00 because of the \$4.00 cost of the board and the \$1.00 tax.

As far as Rep. Brooke's concern, there is a possibility that you won't sell all the tabs. There is a possibility the owner may have the winning number. If they sold 5 tabs on a \$100 board and the winning number was in the 5 tabs that were sold, the business would lose \$90. It can work either way.

REP. BROWN asked REP. DAILY to tell the committee what the vote was to bring your bill out of committee in the Senate and put it on the Senate floor for second reading? REP. DAILY said the vote to bring it off was 38 to 12 and that is why this bill is included as part of this compromise. I think the people doing the compromise realized the potential for HB 503 to pass was definitely there.

REP. BECKER asked Harley Warner if the committee amends this bill to include Rep. Daily's amendments concerning HB 503, would you still support this bill. Mr. Warner said he can only speak for the Montana Churches Association. They support the bill as is but he isn't sure they could support the bill with Rep. Daily's amendments.

Closing by Sponsor:

SEN. GAGE stated there is no doubt HB 503 would pass the Senate. All sports pools should be subject to the same type of

regulations. We don't tax other sports pools and we did not feel we should tax the sports tabs.

I would ask the committee to realize that the gambling industry in Montana is very important and prosperous for many people living in our state. We should pass this bill under that realization instead of our own personal views on gambling. Whether you like gambling or not, we cannot afford to remove any of the industry in Montana. Gambling is a good share of economics in Montana. Too many times we do don't view things in the overall picture we use our personal views. Look at this bill as it really is, an important industry in Montana.

EXECUTIVE ACTION ON SB 427

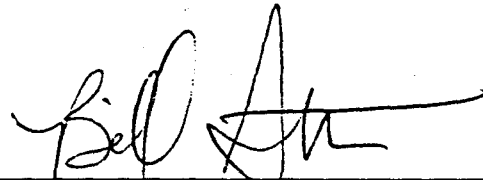
Motion: REP. NELSON MOVED SB 427 DO BE CONCURRED IN.

Motion/Vote: REP. NELSON moved SB 427 be amended. EXHIBIT 1.
Motion carried unanimously.

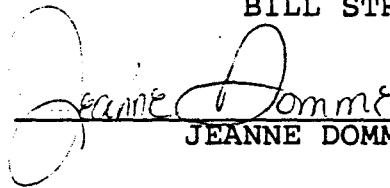
Vote: Motion carried unanimously.

ADJOURNMENT

Adjournment: 11:03 a.m.



BILL STRIZICH, Chair



JEANNE DOMME, Secretary

BS/jmd

HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE

ROLL CALL

DATE 4-11-91

NAME	PRESENT	ABSENT	EXCUSED
REP. VIVIAN BROOKE, VICE-CHAIR	/		
REP. ARLENE BECKER	/		
REP. WILLIAM BOHARSKI		/	
REP. DAVE BROWN	/		
REP. ROBERT CLARK	/		
REP. PAULA DARKO	/		
REP. BUDD GOULD	/		
REP. ROYAL JOHNSON	/		
REP. VERNON KELLER	/		
REP. THOMAS LEE	/		
REP. BRUCE MEASURE	/		
REP. CHARLOTTE MESSMORE	/		
REP. LINDA NELSON	/		
REP. JIM RICE		/	
REP. ANGELA RUSSELL		/	
REP. JESSICA STICKNEY	/		
REP. HOWARD TOOLE	/		
REP. TIM WHALEN	/		
REP. DIANA WYATT	/		
REP. BILL STRIZICH, CHAIRMAN	/		

*Deanne
Honne*

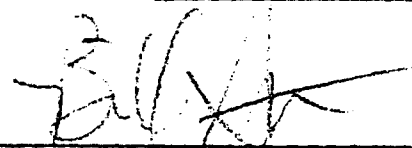
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4-11-91
JDB

HOUSE STANDING COMMITTEE REPORT

April 11, 1991

Page 1 of 2

Mr. Speaker: We, the committee on Judiciary report that Senate Bill 427 (third reading copy -- blue) be concurred in as amended.

Signed: 
Bill Strizich, Chairman

Carried by: Rep. Darko

And, that such amendments read:

1. Title, page 2, line 16.

Following: "THE"

Insert: "LIVE CARD GAMES AND"

Following: "KENO"

Strike: "TAX AND PERMIT FEE"

Insert: "LAWS"

2. Page 6, line 25.

Strike: "issued"

Insert: "used"

Following: "PART"

Insert: "5 or"

Strike: "used"

3. Page 7, line 25.

Strike: "sports sweepstakes,"

4. Page 13, line 15.

Strike: "may"

Insert: "shall, upon request,"

5. Page 41, line 4.

Strike: "AT" through "BEFORE"

Insert: "Before"

6. Page 43, line 15.

Following: "home"

Strike: "or" through "center"

7. Page 44, lines 8 and 9.

Strike: ":" on line 8 and "(a)" on line 9

Insert: ","

8. Page 44, lines 14 through 23.

Strike: " on line 14 through "services" on line 23

9. Page 51, line 23.

Strike: "PLAYING FOR"

Insert: "purchasing"

10. Page 52, line 10.

Strike: "MAY"

Insert: "must"

11. Page 53, line 3.

Following: "Each"

Strike: "A"

Insert: "Each"

Following: "OR"

Strike: "A"

12. Page 70, line 8.

Strike: the first "SECTION"

Insert: "Sections 4,"

Following: "26"

Insert: ","

PROPOSED AMENDMENTS TO SENATE BILL NO. 427

(Third reading copy -- blue)
April 8, 1991

1. Page 6, line 25.

Strike: "issued"

Insert: "used"

Following: "PART"

Insert: "5 or "

Strike: "used"

2. Page 7, line 25.

Strike: "sports sweepstakes,"

3. Page 13, line 15.

Strike: "may"

Insert: "shall upon request"

4. Page 41, line 4.

Strike: "AT" through "DAYS"

5. Page 51, line 23.

Strike: "PLAYING FOR"

Insert: "purchasing"

6. Page 52, line 10.

Strike: "MAY"

Insert: "must"

7. Page 53, line 3.

Following: "Each"

Strike: "A"

Insert: "Each"

Following: "OR"

Strike: "A"

8. Page 70, line 8.

Following: "SECTION"

Insert: "4,"

Following: "26"

Insert: ", "

Ex. 1

4-11-91

HB 427

Lg. Council

1. Page 43, line 15.

Following: "home"

Strike: "or" through "center"

2. Page 44, lines 8 and 9.

Strike: ":" on line 8 and "(a)" on line 9

Insert: ", "

3. Page 44, lines 14 through 23.

Strike: ":" on line 14 through "services" on line 23

SUMMARY OF SENATE BILL NO. 427
(Third reading copy -- blue)

Prepared by the Gambling Control Division
April 9, 1991

SECTION 1 amends the general definition section of the gambling laws to:

- (1) define a card game tournament (23-5-112(7), MCA);
- (2) exclude a promotional game of chance from the definition of gambling (23-5-112(11), MCA);
- (3) provide specific examples of illegal gambling devices and illegal gambling enterprises (23-5-112(15) and (16), MCA);
- (4) define a nonprofit organization (23-5-112(24), MCA);
- (5) define a promotional game of chance as a scheme for disposing of property by chance among persons who have not paid or are not expected to pay valuable consideration or who have not purchased or are not expected to purchase any goods or services for a chance to obtain the property (23-5-112(29), MCA);
- (6) expand the definition of public gambling (23-5-112(30), MCA); and
- (7) revise the definition of raffle (23-5-112(31), MCA).

SECTION 2 amends 23-5-113, MCA, to allow a court to order, upon conviction for a gambling violation, the forfeiture of property seized by a Department of Justice agent during a lawful search.

SECTION 3 amends 23-5-115, MCA, to permit the Department of Justice to disclose certain information obtained in the gambling application or tax reporting processes as provided in section 4.

SECTION 4 is a new code section addressing the authority of the Department of Justice to disclosure information. Subsection (1) permits the Department to disclose the following information from a license or permit application:

- (1) the applicant's name;
- (2) the address of the business where the activity under the license or permit is to be conducted;
- (3) the name of each person having an ownership interest in the business; and
- (4) types of permits requested by the applicant.

Subsection (2) permits the Department to disclose the above information plus any other relevant information to:

- (1) a federal, state, city, county, or tribal criminal justice agency; or
- (2) the Montana Department of Revenue or the federal Internal Revenue Service.

SECTION 5 amends 23-5-152, MCA, to make it a misdemeanor offense to operate an illegal gambling enterprise. The section further provides that an illegal gambling device may be possessed or located for display purposes only in:

- (1) a public or private museum; or
- (2) any other public place if the device has been permanently disabled for purposes of conducting a gambling activity.

SECTION 6 amends 23-5-177, MCA, to:

- (1) require the Department of Justice to approve the premises in which the gambling activity is to be conducted before issuing an operator's license;
- (2) prohibit the Department from issuing more than one operator's license per premises, regardless of the number of on-premises alcoholic beverage licenses that have been issued for the premises; and
- (3) impose a one-time operator's license application processing fee for applications submitted on or after July 1, 1991, to cover the cost incurred by the Department in determining whether the applicant qualifies for licensure.

SECTION 7 is a new code section addressing "license stacking". It establishes requirements that a premises must meet before the Department of Justice may issue an operator's license.

Subsection (4) contains a temporary "grandfather" clause for a premises that does not meet the premises approval requirements. Under this provision, a premises that does not meet the requirements but was issued a second operator's license on or before January 1, 1991, may continue to operate until June 30, 1996, and then must come under compliance. Likewise, a person who had applied for a second operator's license on or before January 1, 1991, for a premises that does not meet the premises approval requirements may be issued a license until June 30, 1996, if:

(1) a second on-premises alcoholic beverages license for the premises was obtained on or before January 1, 1991; and

(2) substantial physical modifications to the premises were completed on or before January 1, 1991.

SECTION 8 is a new code section requiring an operator to notify the Department of Justice before transferring any ownership interest in his premises.

SECTION 9 is a new code section establishing a card room contractor license for a person who enters into an agreement with a licensed operator to operate card game tables on the operator's premises.

SECTION 10 is a new code section that permits the Department of Justice or local law enforcement officials to inspect a premises where a gambling activity is being conducted or a facility where gambling devices are manufactured or distributed.

SECTION 11 is a new code section requiring a person who manufactures or supplies electronic bingo or keno equipment to obtain an annual manufacturer's license from the Department of Justice. The license fee is \$1,000. In addition to the license fee, the Department may charge a one-time application fee to cover the cost of processing the original license. The license and processing fees are retained by the Department for administrative purposes.

SECTION 12 is a new code section requiring a licensed manufacturer to submit to the Department of Justice for examination a prototype of any electronic bingo or keno equipment intended for use in the state. The manufacturer must pay the anticipated examination costs. After completing the examination, the Department may approve, disapprove, or conditionally approve use of the equipment.

SECTION 13 is a new code section authorizing the Department of Justice to adopt rules describing the electronic bingo and keno equipment that may be approved for use in the state.

SECTION 14 is a new code section defining the term "casino night".

SECTION 15 is a new code section authorizing a nonprofit organization to conduct a casino night that may offer the following gambling activities:

- (1) live card games authorized under 23-5-311, MCA (bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist);
- (2) live bingo and keno games; and
- (3) raffles.

SECTION 16 is a new code section describing the process for applying for a casino night permit. The permit fee is \$25.

SECTION 17 is a new code section authorizing the Department of Justice to issue to a nonprofit organization one casino night permit per year. The permit fee is retained by the Department for administrative purposes.

SECTION 18 is a new code section imposing certain requirements on conducting casino nights (e.g., maximum duration of 12 hours, merchandise prizes only, etc.).

SECTION 19 is a new code section exempting gambling activities conducted during a casino night from the licensure and other regulatory requirements imposed on live card games, live

bingo, live keno, and raffles.

SECTION 20 is a new code section authorizing the Department of Justice to adopt rules to administer the casino night provisions.

SECTION 21 is a new code section defining a "fantasy sports league".

SECTION 22 is a new code section legalizing the conducting of fantasy sports leagues.

SECTION 23 is a new code section that applies certain restrictions on conducting a fantasy sports league.

SECTION 24 is a new code section prohibiting sports betting in conjunction with fantasy sports leagues.

SECTION 25 is a new code section providing that a violation of the fantasy sports league statutes is a misdemeanor offense.

SECTION 26, which amends 23-5-114, MCA, clarifies provisions concerning prohibited activities for Department of Justice employees and former employees. The section prohibits a designated employee from participating in a gambling activity regulated by the Department or from being employed by a licensed operator in any capacity involving the conduct of a gambling activity regulated by the Department.

SECTION 27 amends 23-5-136, MCA, to permit the Department of Justice to issue a warrant for distraint against an operator who fails to pay a civil penalty imposed by the Department or the video gambling machine or live bingo or keno tax. When issuing and executing a warrant, the Department must follow the same procedural requirements imposed on the Department of Revenue in 15-1-701 through 15-1-709, MCA. The section also provides that the local government portion of penalty payments is statutorily appropriated.

SECTION 28 amends 23-5-153, MCA, to permit a person or entity who may legally possess an antique slot machine (i.e., private individual, public museum, or licensed manufacturer-distributor) to sell the machine to another person or entity who may legally possess one. It also allows a person to commercially sell antique slot machines after obtaining a license from the Department of Justice.

SECTION 29 amends 23-5-154, MCA, to make it a misdemeanor to solicit another person to participate in an illegal gambling enterprise.

SECTION 30 amends 23-5-156, MCA, to clarify that it is a criminal offense for a person in an activity involving gambling to obtain anything of value by misrepresentation, fraud, or the use of an illegal gambling device or enterprise.

SECTION 31 amends 23-5-158, MCA, to prohibit a minor from participating in all forms of gambling except noncommercial raffles.

SECTION 32 amends 23-5-162, MCA, to require the Department of Justice to revoke all gambling licenses and permits issued to a person convicted of a felony gambling offense.

SECTION 33 amends 23-5-176, MCA, to prohibit the Department of Justice from issuing a gambling license to an applicant who has been convicted of a felony offense within five years of application or is on probation, parole, or deferred prosecution for committing a felony offense. In addition, the Department may deny a license or permit to an applicant who has falsified a license or permit application. The section also provides that certain statutes relating to occupational licensing do not apply to issuance of a gambling license.

SECTION 34 is a new code section that makes it a misdemeanor for a gambling licensee to sell, assign, lease, or transfer a gambling license or permit.

SECTION 35 amends 23-5-308, MCA, to require a card dealer's license only if a person intends to deal cards in a game of panguingue or poker. The section also provides that submission by certified mail of a completed application and annual license fee constitutes a temporary license.

SECTION 36 amends 23-5-309, MCA, to permit a card game conducted as part of a tournament to be played on a table that does not have a live card game permit. The section also requires only a game of panguingue or poker to be played under the control of a licensed dealer.

SECTION 37 is a new code section providing for card game tournaments. Under this section, a licensed operator who has a permit for placing at least one live card game table on his premises may conduct up to 12 tournaments a year. Each tournament may last no more than 5 consecutive days. An operator must obtain a permit from the Department of Justice before conducting a tournament. The permit fee is \$10.

SECTION 38 amends 23-5-406, MCA, to clarify existing exemptions to the live bingo and keno permit fee and tax. In addition, an exemption from payment of the permit and tax is extended to: (1) fraternal and veterans' organizations granted an exemption under 26 U.S.C. 501(c)(8) or (c)(19); (2) nursing homes; (3) retirement homes; and (4) senior citizen centers.

SECTION 39 amends 23-5-407, MCA, to reduce the permit fee for live bingo and keno games from \$500 to \$250.

SECTION 40 amends 23-5-409, MCA, to eliminate the tax of five percent on the net income from live bingo and keno games. Under this revision, an operator would be required to pay a tax of one percent of the gross proceeds from the games.

SECTION 41 amends 23-5-412, MCA, to authorize the use of way tickets in keno games, subject to the statutory bet and payout limits. Way tickets permit a player to select three or

more numbers on a single card, place bets on various combinations of these numbers, and receive payouts on winning combinations.

SECTION 42 amends 23-5-413, MCA, to rearrange and clarify certain raffle provisions. It also prohibits a board of county commissioners from charging a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization. In addition, the section requires a person or organization, other than a religious corporation sole or nonprofit organization, to own in advance of ticket sales all prizes to be awarded as part of the raffle.

SECTION 43 amends 23-5-501, MCA, by striking the definition of "nonprofit organization"; this definition is included in the amendments to 23-5-112, MCA. It also broadens the definition of "sports pool" by eliminating reference to a card divided into squares or spaces with the names of the participants written within the squares or spaces. In addition, the terms "sports tab" and "sports tab game" are defined.

SECTION 44 is a new code section that sets criteria for the design of a sports pool and authorizes the Department of Justice to adopt rules describing authorized sports pools.

SECTION 45 amends 23-5-503, MCA, to limit the maximum bet and payouts to \$5 and \$500, respectively, for sports pools and sports tab games. The winner of a sports tab game must receive a 100 percent payout of the value of the game, less the operator's cost of purchasing the game. This section also places certain prohibitions on persons or organizations conducting a sports pool or sports tab game to ensure that the pool or game is used as a trade stimulant only.

SECTION 46 amends 23-5-603, MCA, to require video gambling machines to be placed in a room in which alcoholic beverages are sold or consumed and within control of the operator.

SECTION 47 amends 23-5-610, MCA, to change the name of the video gambling machine

tax from a net income tax to a gross income tax. It also allows a deduction for theft for purposes of calculating the tax.

SECTION 48 amends 23-5-611, MCA, to remove the 10-machine limit on draw poker machines. The cap of 20 video gambling machines per premises is retained.

SECTION 49 amends 23-5-612, MCA, to require video gambling machine permits to be prorated on a quarterly basis.

SECTION 50 amends 23-5-625, MCA, to prohibit a manufacturer-distributor from selling a video gambling machine to any person other than another manufacturer-distributor or an operator. It also provides that an operator or a lien holder (e.g., a financial institution) may sell machines subject to certain restrictions.

SECTION 51 amends 23-5-631, MCA, to provide that payments received by the Department of Justice from manufacturer-distributors for testing new video gambling machines are statutorily appropriated.

SECTION 52 amends 17-7-502, MCA, to statutorily appropriate to the Department of Justice: (1) the local government portion of penalty payments for deposit in the county or municipal treasury; and (2) the video gambling machine testing payments.

SECTION 53 amends 2-15-2021, MCA, to require the Department of Justice and the Gaming Advisory Council to submit biennial, rather than annual, reports.

SECTION 54 amends 23-5-602, MCA, to rename "net machine income" as "gross income" for purposes of calculating the video gambling machine tax.

SECTION 55 is a new code section that authorizes two gambling activities:

- (1) fishing derbies; and

(2) wagering on natural occurrences.

SECTION 56 amends 23-5-502, MCA, to authorize sports tab games.

SECTION 57 is a new code section indicating where the new sections of the bill are to be codified within current law.

SECTION 58 is a new code section providing that all sections of the bill, except sections 26 (prohibited activities for Department of Justice employees) and this section, are effective July 1, 1991. Section 26 and this section are effective on passage and approval.

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HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

House Judiciary COMMITTEE BILL NO. SB 427
 DATE 4-11-91 SPONSOR(S) SEN. Gage

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CHARLES W. WALK	MNA			
Mike Voeller	Lee Enterprises	427		✓
John P. Porter	Mont. Coin. Op. Assn.	427		✓
LARRY AKEY	GAMING INDUSTRY ASSOC	427		
Gary Bennett	WLC VLC Inc	427		2
Joe Roberts	Don't Gamble With The Future	427		X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS
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SENATE BILL NO. 427

INTRODUCED BY GAGE, B. BROWN

BY REQUEST OF THE DEPARTMENT OF JUSTICE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PUBLIC GAMBLING LAWS OF MONTANA; REVISING THE DEFINITIONS OF ILLEGAL GAMBLING DEVICE AND ILLEGAL GAMBLING ENTERPRISE; DEFINING A PROMOTIONAL GAME OF CHANCE AND ~~LIMITING PAYOUTS ON THE GAMES~~; PERMITTING LIMITED RELEASE OF LICENSE AND TAX INFORMATION; ESTABLISHING A ONE-TIME FEE FOR PROCESSING AN OPERATOR'S LICENSE APPLICATION; PROVIDING REQUIREMENTS FOR PREMISES APPROVAL; REQUIRING NOTIFICATION BEFORE THE TRANSFER OF AN OWNERSHIP INTEREST IN AN OPERATOR'S PREMISES; ~~REQUIRING PERSONS INVOLVED IN CONDUCTING GAMBLING TO BE EMPLOYEES OF AN OPERATOR; PROHIBITING A GAMBLING LICENSEE FROM HAVING A SUBSTANTIAL INTEREST IN A GAMBLING BUSINESS OPERATED AT A DIFFERENT MARKETING LEVEL~~; PROVIDING FOR INSPECTION OF PREMISES; CREATING A MANUFACTURER'S LICENSE FOR ELECTRONIC BINGO AND KENO EQUIPMENT; LEGALIZING LIMITED CASINO NIGHTS; EXPANDING PROVISIONS GOVERNING SPORTS POOLS; PRORATING VIDEO GAMBLING MACHINE PERMIT FEES; ALLOWING A DEDUCTION FOR THEFT FOR PURPOSES OF CALCULATING THE VIDEO GAMBLING MACHINE TAX; AUTHORIZING FANTASY SPORTS LEAGUES, FISHING DERBIES, AND WAGERING ON NATURAL OCCURRENCES; REQUIRING BIENNIAL REPORTS FROM THE DEPARTMENT OF JUSTICE

AND GAMING ADVISORY COUNCIL; REVISING CERTAIN GAMBLING DEFINITIONS; CLARIFYING CERTAIN CRIMINAL GAMBLING OFFENSES; ESTABLISHING A PENALTY FOR SALE, ASSIGNMENT, LEASE, OR TRANSFER OF A LICENSE OR PERMIT; STATUTORILY APPROPRIATING VIDEO GAMBLING MACHINE TESTING FEES TO THE DEPARTMENT OF JUSTICE; REVISING PROVISIONS CONCERNING ANTIQUE SLOT MACHINES; CLARIFYING PROHIBITED ACTIVITIES FOR DEPARTMENT OF JUSTICE EMPLOYEES; CLARIFYING DISPOSITION OF PENALTIES, FINES, AND FORFEITURES; AUTHORIZING THE DEPARTMENT OF JUSTICE TO ISSUE WARRANTS FOR DISTRAINT; ESTABLISHING THE CRIME OF SOLICITING ANOTHER PERSON TO PARTICIPATE IN AN ILLEGAL GAMBLING ENTERPRISE AND ESTABLISHING A PENALTY; PROHIBITING A MINOR FROM PARTICIPATING IN CERTAIN FORMS OF GAMBLING; REQUIRING LICENSE AND PERMIT REVOCATION UPON CONVICTION OF A FELONY GAMBLING OFFENSE; CREATING ADDITIONAL EXEMPTIONS FROM THE LIVE CARD GAMES AND LIVE BINGO AND KENO TAX AND PERMIT FEE LAWS; CLARIFYING RAFFLE PROVISIONS; PROVIDING FOR SALE OF VIDEO GAMBLING MACHINES; REVISING CARD DEALER PROVISIONS; AUTHORIZING WAY TICKETS IN KENO GAMES; REMOVING THE 10-MACHINE LIMIT ON VIDEO DRAW POKER MACHINES; REVISING LICENSURE QUALIFICATIONS; PROVIDING FOR CARD GAME TOURNAMENTS; CLARIFYING PLACEMENT OF VIDEO GAMBLING MACHINES; ELIMINATING NET TAX ON LIVE BINGO AND KENO GAMES AND REVISING THE PERMIT FEE; AUTHORIZING SPORTS TAB GAMES PURSUANT TO THE RULES GOVERNING SPORTS POOLS; AMENDING

SECTIONS 2-15-2021, 17-7-502, 23-5-112, 23-5-113, 23-5-114,
23-5-115, 23-5-136, 23-5-152, 23-5-153, 23-5-154, 23-5-156,
23-5-158, 23-5-162, 23-5-176, 23-5-177, 23-5-308, 23-5-309,
23-5-312,--AND 23-5-406, 23-5-407, 23-5-409, 23-5-412,
23-5-413, 23-5-501, 23-5-502, 23-5-503, 23-5-602, 23-5-603,
23-5-610, 23-5-611, 23-5-612, 23-5-625, AND 23-5-631, MCA;
 AND PROVIDING EFFECTIVE DATES."

STATEMENT OF INTENT

A statement of intent is required for this bill because
 [sections ~~16--and--23~~ 13, 20, AND 44] grant rulemaking
 authority to the department of justice.

[Section ~~16~~ 13] requires the department to adopt rules
 describing electronic live bingo and keno equipment that may
 be approved for use in Montana. The rules must ensure that
 the electronic equipment use a random selection process to
 determine the outcome of each bingo or keno game.

[Section ~~23~~ 20] requires the department to adopt rules
 to administer the laws governing casino nights. The rules
 must address but are not limited to:

- (1) procedures for applying for a casino night permit;
- (2) the type of documentation to be submitted as part
 of the application to establish an organization's nonprofit
 status; and
- (3) the conduct of games operated during a casino night

to ensure that illegal gambling activities are not offered.

[SECTION 44] REQUIRES THE DEPARTMENT TO ADOPT RULES
 DESCRIBING THE TYPES OF SPORTS POOLS AUTHORIZED UNDER
23-5-501, 23-5-503, AND [SECTION 44].

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 23-5-112, MCA, is amended to read:

"23-5-112. Definitions. Unless the context requires
 otherwise, the following definitions apply to parts 1
 through 6 of this chapter:

(1) "Applicant" means a person who has applied for a
 license or permit issued by the department pursuant to parts
 1 through 6 of this chapter.

(2) "Application" means a written request for a license
 or permit issued by the department. The department shall
 adopt rules describing the forms and information required
 for issuance of a license.

(3) "Authorized equipment" means, with respect to live
 keno or bingo, equipment that may be inspected by the
 department and that randomly selects the numbers.

(4) "Bingo" means a gambling activity played for prizes
 with a card bearing a printed design of 5 columns of 5
 squares each, 25 squares in all. The letters B-I-N-G-O must
 appear above the design, with each letter above one of the
 columns. No more than 75 numbers may be used. One number

1 must appear in each square, except for the center square,
2 which may be considered a free play. Numbers are randomly
3 drawn using authorized equipment until the game is won by
4 the person or persons who first cover a previously
5 designated arrangement of numbers on the bingo card.

6 (5) "Bingo caller" means a person 18 years of age or
7 older who, using authorized equipment, announces the order
8 of the numbers drawn in live bingo.

9 (6) "Card game table" or "table" means a live card game
10 table authorized by permit and made available to the public
11 on the premises of a licensed gambling operator.

12 (7) "CARD GAME TOURNAMENT" MEANS A GAMBLING ACTIVITY
13 FOR WHICH A PERMIT HAS BEEN ISSUED INVOLVING PARTICIPANTS
14 WHO PAY VALUABLE CONSIDERATION FOR THE OPPORTUNITY TO
15 COMPETE AGAINST EACH OTHER IN A SERIES OF LIVE CARD GAMES
16 CONDUCTED OVER A DESIGNATED PERIOD OF TIME.

17 ~~(7)~~(8) "Dealer" means a person with a dealer's license
18 issued under part 3 of this chapter.

19 ~~(8)~~(9) "Department" means the department of justice.

20 ~~(9)~~(10) "Distributor" means a person who:

21 (a) purchases or obtains from another person equipment
22 of any kind for use in gambling activities; and

23 (b) sells, leases, or otherwise furnishes the equipment
24 to another person for use in public.

25 ~~(10)~~(11) "Gambling" or "gambling activity" means risking

1 money, credit, deposit, check, property, or any other thing
2 of value for a gain that is contingent in whole or in part
3 upon lot, chance, or the operation of a gambling device or
4 gambling enterprise. The term does not mean conducting or
5 participating in a promotional game of chance.

6 ~~(11)~~(12) "Gambling device" means a mechanical,
7 electromechanical, or electronic device, machine, slot
8 machine, instrument, apparatus, contrivance, scheme, or
9 system used or intended for use in any gambling activity.

10 ~~(12)~~(13) "Gambling enterprise" means an activity,
11 scheme, or agreement or an attempted activity, scheme, or
12 agreement to provide gambling or a gambling device to the
13 public.

14 ~~(13)~~(14) "Gross proceeds" means gross revenue received
15 less prizes paid out.

16 ~~(14)~~(15) "Illegal gambling device" means a gambling
17 device not specifically authorized by statute or by the
18 rules of the department. The term includes but-is-not
19 limited-to:

20 (a) a ticket or card, by whatever name known,
21 containing concealed numbers or symbols that may match
22 numbers or symbols designated in advance as prize winners,
23 including a pull tab, punchboard, push card, tip board,
24 pickle ticket, break-open, or jar game, except for one
25 issued USED under chapter PART 5 OR 10 of this title CHAPTER

1 or used in a promotional game of chance approved by the
2 department; and

3 (b) an apparatus, implement, or device, by whatever
4 name known, specifically designed to be used in conducting
5 an illegal gambling enterprise, including a faro box, faro
6 layout, roulette wheel, roulette table, craps table or a
7 slot machine, except as provided in 23-5-153.

8 {15}{16} "Illegal gambling enterprise" means a gambling
9 enterprise that violates or is not specifically authorized
10 by a statute or a rule of the department. The term includes
11 but-is-not-limited-to:

12 (a) a card game, by whatever name known, involving any
13 bank or fund from which a participant may win money or other
14 consideration and that receives money or other consideration
15 lost by the participant and includes the card games of
16 blackjack, twenty-one, jacks or better, baccarat, or chemin
17 de fer;

18 (b) a dice game, by whatever name known, in which a
19 participant wagers on the outcome of the roll of one or more
20 die, includes craps, hazard, or chuck-a-luck, but does not
21 include an activity in which a participant rolls one or more
22 die for a chance to obtain a drink or music; and

23 (c) sports betting, by whatever name known, in which a
24 person places a wager on the outcome of an athletic event,
25 including bookmaking, parlay bets, sports--sweepstakes, or

1 sultan sports cards, but not including those activities
2 authorized in chapter 4 of this title and parts 2 and 5 of
3 this chapter.

4 {16}{17} "Keno" means a game of chance in which prizes
5 are awarded using a card with 8 horizontal rows and 10
6 columns on which a player may pick up to 10 numbers. A keno
7 caller, using authorized equipment, shall select at random
8 at least 20 numbers out of numbers between 1 and 80,
9 inclusive.

10 {17}{18} "Keno caller" means a person 18 years of age or
11 older who, using authorized equipment, announces the order
12 of the numbers drawn in live keno.

13 {18}{19} "License" means an operator's, dealer's, or
14 manufacturer-distributor's license issued to a person by the
15 department.

16 {19}{20} "Licensee" means a person who has received a
17 license from the department.

18 {20}{21} "Live card game" or "card game" means a card
19 game that is played in public between persons on the
20 premises of a licensed gambling operator.

21 {21}{22} "Lottery" or "gift enterprise" means a scheme,
22 by whatever name known, for the disposal or distribution of
23 property by chance among persons who have paid or promised
24 to pay valuable consideration for the chance of obtaining
25 the property or a portion of it or for a share or interest

1 in the property upon an agreement, understanding, or
 2 expectation that it is to be distributed or disposed of by
 3 lot or chance. However, "gift enterprise" does not mean:

4 (a) lotteries authorized under part 10 of this chapter;
 5 or

6 (b) cash or merchandise attendance prizes or premiums
 7 that the county fair commissioners of agricultural fairs and
 8 rodeo associations may give away at public drawings at fairs
 9 and rodeos.

10 ~~(22)~~(23) "Manufacturer" means a person who assembles
 11 from raw materials or subparts a completed piece of
 12 equipment or pieces of equipment of any kind to be used as a
 13 gambling device.

14 (24) "NONPROFIT ORGANIZATION" MEANS A NONPROFIT
 15 CORPORATION OR NONPROFIT CHARITABLE, RELIGIOUS, SCHOLASTIC,
 16 EDUCATIONAL, VETERANS', FRATERNAL, BENEFICIAL, CIVIC, SENIOR
 17 CITIZENS', OR SERVICE ORGANIZATION ESTABLISHED FOR PURPOSES
 18 OTHER THAN TO CONDUCT A GAMBLING ACTIVITY.

19 ~~(23)~~(25) "Operator" means a person who purchases,
 20 receives, or acquires, by lease or otherwise, and operates
 21 or controls for use in public, a gambling device or gambling
 22 enterprise authorized under parts 1 through 6 of this
 23 chapter.

24 ~~(24)~~(26) "Permit" means approval from the department to
 25 make available for public play a gambling device or gambling

1 enterprise approved by the department pursuant to parts 1
 2 through 6 of this chapter.

3 ~~(25)~~(27) "Person" or "persons" means both natural and
 4 artificial persons and all partnerships, corporations,
 5 associations, clubs, fraternal orders, and societies,
 6 including religious and charitable organizations.

7 ~~(26)~~(28) "Premises" means the physical building or
 8 property within or upon which a licensed gambling activity
 9 occurs, as stated on an operator's license application and
 10 approved by the department.

11 ~~(27)~~(29) "Promotional game of chance" means a scheme, by
 12 whatever name known, for the disposal or distribution of
 13 property by chance among persons who have not paid or are
 14 not expected to pay any valuable consideration or who have
 15 not purchased or are not expected to purchase any goods or
 16 services for a chance to obtain the property, a portion of
 17 it, or a share in it.

18 ~~(27)~~~~(28)~~(30) "Public gambling" means gambling conducted
 19 in:

20 (a) a place, building, or conveyance to which the
 21 public has access or may be permitted to have access; or

22 (b) a place of public resort, including but not limited
 23 to a facility owned, managed, or operated by a partnership,
 24 corporation, association, club, fraternal order, or society,
 25 including a religious or charitable organization; OR

(C) A PLACE, BUILDING, OR CONVEYANCE TO WHICH THE PUBLIC DOES NOT HAVE ACCESS IF PLAYERS ARE PUBLICLY SOLICITED OR THE GAMBLING ACTIVITY IS CONDUCTED IN A PREDOMINATELY COMMERCIAL MANNER.

{20}{29}(31) "Raffle" means a gift--enterprise FORM OF LOTTERY in which each participant buys-a-chance-or-chances PAYS VALUABLE CONSIDERATION FOR A TICKET TO BECOME ELIGIBLE to win a prize. WINNERS MUST BE DETERMINED BY A RANDOM SELECTION PROCESS APPROVED BY DEPARTMENT RULE.

{29}{30}(32) "Slot machine" means a mechanical, electrical, electronic, or other gambling device, contrivance, or machine that, upon insertion of a coin, currency, token, credit card, or similar object or upon payment of any valuable consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the gambling device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner. This definition does not apply to video gambling machines authorized under part 6 of this chapter.

{30}{31}(33) "Video gambling machine" is a gambling device specifically authorized by part 6 of this chapter and the rules of the department."

Section 2. Section 23-5-113, MCA, is amended to read:

"23-5-113. Department as criminal justice agency -- seized property. (1) The department is a criminal justice agency. Designated agents of the department are granted peace officer status, with the power of search, seizure, and arrest, to investigate gambling activities in this state regulated by parts 1 through 6 of this chapter and the rules of the department and to report violations to the county attorney of the county in which they occur.

(2) Upon conviction for any violation of parts 1 through 6 of this chapter, the court may order any property seized by a department OR LOCAL LAW ENFORCEMENT agent during a lawful search to be forfeited to the department, sold, if necessary, and disposed of under 23-5-123."

Section 3. Section 23-5-115, MCA, is amended to read:

"23-5-115. Powers and duties of department -- licensing. (1) The department shall administer the provisions of parts 1 through 6 of this chapter.

(2) The department shall adopt rules to administer and implement parts 1 through 6 of this chapter.

(3) The department shall provide licensing procedures, prescribe necessary application forms, and grant or deny license applications.

(4) The department shall prescribe recordkeeping requirements for licensees, provide a procedure for

inspection of records, provide a method for collection of taxes, and establish penalties for the delinquent reporting and payment of required taxes.

(5) The department may suspend, revoke, deny, or place a condition on a license issued under parts 1 through 6 of this chapter.

(6) The department may not make public or otherwise disclose information obtained in the application or tax reporting processes, except for general statistical reporting or studies or as provided in [section 4].

(7) The department shall assess, collect, and disburse any fees, taxes, or charges authorized under parts 1 through 6 of this chapter."

NEW SECTION. Section 4. Disclosure of information. (1)

The department may SHALL, UPON REQUEST disclose the following information from a license or permit application:

(a) the applicant's name;

(b) the address of the business where the activity under the license or permit is to be conducted;

(c) the name of each person having an ownership interest in the business; AND

~~(d)--the-applicant's-source-of-financing;~~

~~(e)(D)~~ types of permits requested by the applicant; and.

~~(f)--any--other--information--that--the--department--after~~

~~balancing-the-public's-right-to-know-against-the-applicant's right-to-privacy, considers suitable for disclosure.~~

(2) In addition to the information enumerated in subsection (1), the department may disclose any other relevant information obtained in the application or tax reporting process or as a result of other department operations to:

(a) a federal, state, city, county, or tribal criminal justice agency; and

(b) the department of revenue and the federal internal revenue service.

Section 5. Section 23-5-152, MCA, is amended to read:

"23-5-152. Possession of illegal gambling device or conducting illegal gambling enterprise prohibited -- exception exceptions. (1) Except as provided in 23-5-153 and subsection subsections (2) through (4) of this section, it is a misdemeanor punishable under 23-5-161 for a person to purposely or knowingly:

(a) have in his possession or under his control or ~~to purposely--or--knowingly~~ permit to be placed, maintained, or kept in any room, space, enclosure, or building owned, leased, or occupied by him or under his management or control an illegal gambling device; or

(b) operate an illegal gambling enterprise.

(2) This-section Subsection (1) does not apply to a

public officer or to a person coming into possession of an illegal gambling device in or by reason of the performance of an official duty and holding it to be disposed of according to law.

(2)(3) (a) The department may adopt rules to license persons to manufacture gambling devices that are not legal for public play in the state and are manufactured only for export from the state.

(b) A person may not manufacture or possess an illegal gambling device for export from the state without having obtained a license from the department. The department may charge an administrative fee for the license that is commensurate with the cost of issuing the license.

(4) An illegal gambling device may be possessed or located in a public museum owned and operated by the state, a county, or a city for display purposes only and not for operation:

(A) IN A PUBLIC OR PRIVATE MUSEUM; OR

(B) ANY OTHER PUBLIC PLACE IF THE DEVICE HAS BEEN MADE PERMANENTLY INOPERABLE FOR PURPOSES OF CONDUCTING A GAMBLING ACTIVITY."

Section 6. Section 23-5-177, MCA, is amended to read:

"23-5-177. Operator of gambling establishment -- license --fee. (1) It is a misdemeanor for a person who is not licensed by the department as an operator to make

available to the public for play a gambling device or gambling enterprise for which a permit must be obtained from the department.

(2) To obtain an operator's license, a person shall submit to the department:

(a) a completed operator's license application on a form prescribed and furnished by the department;

(b) any other relevant information requested by the department; and

(c) a license application processing fee, as required in subsection (8).

(3) Before issuing an operator's license, the department shall approve, in accordance with [section 7], the premises in which the gambling activity is to be conducted.

(4) Regardless EXCEPT AS PROVIDED IN [SECTION 7], REGARDLESS of the number of on-premises alcoholic beverage licenses issued for a premises, the department may issue only one operator's license for the premises.

(2)(5) An operator's license must include the following information:

(a) a description of the premises upon which the gambling will take place;

(b) the operator's name;

(c) a description of each gambling device or card game

table licensed for which a permit has been issued to the operator by the department for play upon the premises, including the type of game and ~~license-number-or-decal~~ permit number for each licensed game; and

(d) any other relevant information determined necessary by the department.

~~(3)~~(6) The operator's license must be issued annually along with all other licenses permits for gambling devices or games ~~licensed~~ issued to the operator.

~~(4)~~(7) The operator's license must be updated each time a video gambling device machine, bingo, keno, or card game table ~~license~~ permit is newly issued or the device machine or game is removed from the premises.

~~(5)~~(8) The department ~~may-not~~ shall charge an applicant for WHO HAS SUBMITTED an operator's license APPLICATION ON OR AFTER JULY 1, 1991, a one-time license application processing fee to cover the actual cost incurred by the department in determining whether the applicant qualifies for licensure under 23-5-176 the-issuance-of--an--operator's license. After making its determination, the department shall refund any overpayment or charge and collect amounts sufficient to reimburse the department for any underpayment of actual costs.

~~(6)~~(9) The operator's license must be prominently displayed upon the premises for which it is issued."

NEW SECTION. Section 7. Premises approval. (1) ~~THE~~ EXCEPT AS PROVIDED IN SUBSECTION (4), THE department may approve a premises for issuance of an operator's license if the premises meets the requirements contained in subsections (2) through (4).

(2) The premises must:

(a) be a structure or facility that is clearly defined by permanently installed walls that extend from floor to ceiling;

(b) have a unique address assigned by the local government in which the premises is located; and

(c) have a public external entrance, leading to a street or other common area, that is not shared with another premises for which an operator's license has been issued.

(3) If the premises shares a common internal wall with another premises for which an operator's license has been issued, the common wall must be permanently installed, opaque, and extend from floor to ceiling AND MAY NOT CONTAIN AN INTERNAL ENTRANCE THROUGH WHICH PUBLIC ACCESS IS ALLOWED.

(4) ~~if--the--premises--is--connected--by--an--internal entrance-to-another-premises-for-which-an-operator's-license has--been--issued,--the--establishments--operated--on--each premises--may--not--be--owned-by-any-combination-of-the-same persons--and--may--not--be--financially--or--operationally interrelated.~~ A SECOND OPERATOR'S LICENSE MAY BE ISSUED OR

1 RENEWED UNTIL JUNE 30, 1996, FOR A PERSON OPERATING A
 2 GAMBLING ACTIVITY ON A PREMISES THAT DID NOT MEET THE
 3 REQUIREMENTS OF SUBSECTIONS (2) AND (3) IF:

4 (A) THE SECOND OPERATOR'S LICENSE WAS ISSUED TO THE
 5 PERSON ON OR BEFORE JANUARY 1, 1991; OR

6 (B) (I) THE APPLICATION FOR THE SECOND OPERATOR'S
 7 LICENSE WAS RECEIVED BY THE DEPARTMENT ON OR BEFORE JANUARY
 8 1, 1991;

9 (II) A SECOND ON-PREMISES ALCOHOLIC BEVERAGES LICENSE
 10 WAS OBTAINED FOR THE PREMISES ON OR BEFORE JANUARY 1, 1991;
 11 AND

12 (III) SUBSTANTIAL PHYSICAL MODIFICATIONS TO THE PREMISES
 13 WERE MADE ON OR BEFORE JANUARY 1, 1991.

14 NEW SECTION. Section 8. Transfer of ownership
 15 interest. A licensed operator shall notify the department in
 16 writing before transferring any ownership interest in his
 17 premises.

18 NEW SECTION. Section 9. Employees of operator
 19 receipt of gambling revenues: (1) Except as provided in
 20 subsection (2):

21 (a) a person other than a licensed operator who is
 22 involved in conducting a gambling activity on a licensed
 23 operator's premises must be an employee of the licensed
 24 operator; and

25 (b) all revenue derived from conducting a gambling

1 activity on a licensed operator's premises must first accrue
 2 to the licensed operator;

3 (2) The requirements in subsection (1) do not apply to:
 4 (a) a manufacturer or distributor who furnishes video
 5 gambling machines to an operator; or

6 (b) revenue derived from the operation of video
 7 gambling machines. CARD ROOM CONTRACTOR'S LICENSE -- FEE --
 8 SUBMISSION OF CONTRACT. (1) IT IS A MISDEMEANOR FOR A PERSON
 9 TO ENTER INTO A CONTRACT WITH A LICENSED OPERATOR TO OPERATE
 10 ONE OR MORE LIVE CARD GAME TABLES ON THE OPERATOR'S PREMISES
 11 WITHOUT OBTAINING A CARD ROOM CONTRACTOR'S LICENSE FROM THE
 12 DEPARTMENT.

13 (2) THE DEPARTMENT SHALL CHARGE AN ANNUAL LICENSE FEE
 14 OF \$150 FOR ISSUING OR RENEWING A CARD ROOM CONTRACTOR'S
 15 LICENSE. THE DEPARTMENT SHALL RETAIN THE FEE FOR
 16 ADMINISTRATIVE PURPOSES.

17 (3) THE APPLICANT SHALL SUBMIT AT THE TIME OF
 18 APPLICATION FOR A CARD ROOM CONTRACTOR'S LICENSE A COPY OF
 19 THE AGREEMENT ENTERED INTO WITH THE LICENSED OPERATOR.

20 NEW SECTION. Section 10. Interest in gambling-related
 21 business operating at different marketing level prohibited.
 22 (1) For purposes of this section, the issuance of each of
 23 the following gambling licenses for the operation of a
 24 business constitutes a different marketing level:

25 (a) a premises license;

1 {b}--a route operator's license; and
 2 {c}--a manufacturer's or a distributor's license;
 3 {2}--Except as provided in subsection {4}, a person who
 4 has obtained a premises, route operator's, manufacturer's,
 5 or distributor's license may not:
 6 {a}--obtain another license for the operation of a
 7 business at a different marketing level;
 8 {b}--have a substantial interest in another business
 9 operating at a different marketing level;
 10 {c}--allow an officer of his business to have a
 11 substantial interest in another business operating at a
 12 different marketing level;
 13 {d}--employ a person in any capacity if the person is
 14 also employed by another business operating at a different
 15 marketing level; or
 16 {e}--allow another business operating at a different
 17 marketing level or a person with a substantial interest in
 18 such a business to have a substantial interest, either
 19 directly or indirectly, in his business;
 20 {3}--A person possesses a substantial interest in a
 21 business if the person or his spouse:
 22 {a}--owns, operates, manages, or conducts the business
 23 or any part of the business;
 24 {b}--shares in any of the profits or potential profits
 25 of the business;

1 {c}--is an officer or director of the entity owning the
 2 business;
 3 {d}--owns or otherwise controls 5% or more of the assets
 4 or stock of the business; or
 5 {e}--furnishes 5% or more of the capital, whether in
 6 cash, goods, or services, for the operation of the business
 7 during any calendar year.
 8 {4}--{a} The restrictions imposed in subsection {2} do
 9 not apply to a person who on January 1, 1991, was licensed
 10 by the department to operate businesses at different
 11 marketing levels if the person continuously operates the
 12 businesses after that date and meets the requirements of
 13 subsection {4}{b}. However, the person may not obtain an
 14 additional license from the department to operate a business
 15 at a different marketing level if the business was not
 16 operated by the person on January 1, 1991.
 17 {b}--A license issued in compliance with subsection
 18 {4}{a} may not be renewed nor may an appropriate license be
 19 issued to allow continued operation of a business unless, at
 20 the time of application for issuance or renewal of the
 21 license, the natural persons who together hold the majority
 22 financial interest in the business are the same as on
 23 January 1, 1991.
 24 NEW SECTION. **Section 10.** Inspection of premises,
 25 records, and devices. The department or a local law

enforcement official may inspect at any time during normal business hours a premises, as defined in 23-5-112, or a facility where gambling devices are manufactured or distributed. The inspection may include the examination of records, equipment, and proceeds related to the operation of a gambling activity or the manufacture or distribution of a gambling device.

Section 12. Section 23-5-312, MCA, is amended to read:

"23-5-312. Prizes not to exceed three hundred dollars.

(1) A prize for an individual live card game may not exceed the value of \$300. Games may not be combined in any manner so as to increase the value of the ultimate prize awarded.

(2) If a licensed operator conducts a promotional game of chance involving a live card game, the prize limit provided for in subsection (1) applies to prizes awarded as a result of the promotional game of chance."

Section 13. Section 23-5-412, MCA, is amended to read:

"23-5-412. Card prices and prizes. (1) The price for an individual bingo or keno card may not exceed 50 cents.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash. A prize may not exceed the value of \$100 for each individual bingo award or keno card. It is unlawful to, in any manner, combine any awards so as to increase the ultimate value of the award.

(3) If a licensed operator conducts a promotional game

of chance involving bingo or keno, the prize limit provided for in subsection (2) applies to prizes awarded as a result of the promotional game of chance.

(4) A player may give the a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

NEW SECTION. Section 11. Manufacturer's license for electronic bingo or keno equipment -- license and processing fees. (1) A person may not assemble, produce, manufacture, or supply electronic equipment for use in conducting live bingo or keno games in this state without obtaining an annual manufacturer's license from the department.

(2) The department shall charge an annual license fee of \$1,000 for issuing or renewing a manufacturer's license.

(3) A manufacturer's license expires June 30 of each year, and the license fee may not be prorated.

(4) In addition to the license fee provided for in

subsection (2), the department may charge a one-time manufacturer's application fee to cover the actual cost of processing the original license. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(5) The department shall retain for administrative purposes the license and processing fees collected under this section.

NEW SECTION. Section 12. Examination and approval of electronic bingo and keno equipment -- fee. (1) A licensed manufacturer shall submit to the department for examination a prototype of any electronic equipment intended for use in conducting live bingo or keno games before the equipment is used in the state.

(2) Before the equipment is examined, the manufacturer shall pay the anticipated examination costs as determined by the department. The department shall refund an overpayment or charge and collect an amount sufficient to reimburse the department for underpayment of actual costs.

(3) Upon completion of the examination, the department may approve, disapprove, or place a condition upon use of the equipment before it is made available for use in conducting live bingo or keno games.

NEW SECTION. Section 13. Electronic live bingo and keno equipment specifications -- rules. The department shall

adopt rules describing electronic live bingo and keno equipment that may be approved under [section 15 12]. At a minimum, the rules must provide that the equipment use a random selection process to determine the outcome of each game.

NEW SECTION. Section 14. Definitions. Unless the context requires otherwise, ~~the following definitions apply to~~ **FOR PURPOSES OF** [sections 17 14 through 23 20]:

(1) ~~"Casino~~ , "CASINO night" means a fundraising event during which wagers may be made in gambling activities authorized in [section 18 15] through the use of imitation money.

(2) ~~"Nonprofit organization" means a nonprofit corporation or nonprofit charitable, religious, scholastic, educational, veterans, fraternal, beneficial, civic, senior citizens, or service organization established for purposes other than to conduct a gambling activity.~~

NEW SECTION. Section 15. Casino nights authorized. (1) Nonprofit organizations may conduct or participate in a casino night.

(2) The following gambling activities may be conducted during a casino night:

- (a) live card games authorized under 23-5-311;
- (b) live bingo and keno games; and
- (c) raffles.

NEW SECTION. Section 16. Application for permit. (1) A nonprofit organization may apply to the department for a casino night permit on a form prescribed and furnished by the department. The application must be accompanied by a fee of \$25.

(2) The application must include:

(a) the name and address of the applicant;

(b) the name and address of the applicant's officers;

(c) the location, date, and time at which the applicant will conduct the casino night;

(d) sufficient evidence concerning the structure and operation of the organization to enable the department to determine whether the applicant is a nonprofit organization; and

(e) other relevant information requested by the department.

NEW SECTION. Section 17. Issuance of permit -- disposition of fee. (1) After review of an application submitted under [section 19 16], the department may issue to the applicant a casino night permit. Only one permit may be issued to the applicant each year. The permit is valid for only one location and is not assignable or transferrable.

(2) The department shall retain the fee provided for in [section 19 16] for administrative purposes.

NEW SECTION. Section 18. Requirements for conducting

casino nights. A nonprofit organization that has obtained a permit under [section 20 17] shall conduct a casino night in compliance with the following conditions:

(1) The casino night may not last more than 12 consecutive hours.

(2) The casino night must be managed and operated only by members of the nonprofit organization that was issued the permit under [section 20 17]. The members may not be compensated for their services;

(3) Only merchandise may be awarded as prizes.

(4) Proceeds derived from the casino night, after payment of reasonable administrative expenses, may be used only for a civic, charitable, or educational purpose, and administrative expenses may not exceed 50% of the proceeds.

NEW SECTION. Section 19. Nonapplicability of certain gambling laws. The provisions of parts 3 and 4 of this chapter, EXCEPT 23-5-311, do not apply to live card games, live bingo or keno games, or raffles conducted during a casino night.

NEW SECTION. Section 20. Rules. The department shall adopt rules to administer [sections 17 14 through 22 19]. At a minimum, the rules must address application procedures and play of the games during a casino night.

NEW SECTION. SECTION 21. FANTASY SPORTS LEAGUES DEFINED. AS USED IN [SECTIONS 21 THROUGH 25], A "FANTASY

SPORTS LEAGUE" MEANS A GAMBLING ACTIVITY CONDUCTED IN THE FOLLOWING MANNER:

(1) A FANTASY SPORTS LEAGUE CONSISTS OF A LIMITED NUMBER OF PERSONS OR GROUPS OF PERSONS WHO PAY AN ENTRANCE FEE FOR MEMBERSHIP IN THE LEAGUE. THE ENTRANCE FEE MAY INCLUDE AN ADMINISTRATIVE FEE.

(2) EACH LEAGUE MEMBER CREATES A FICTITIOUS TEAM COMPOSED OF ATHLETES FROM A GIVEN PROFESSIONAL SPORT, SUCH AS BASEBALL, BASKETBALL, OR FOOTBALL. PLAYER SELECTION IS CONDUCTED THROUGH RANDOM DRAWINGS OR A BIDDING PROCESS.

(3) AFTER THE INITIAL TEAMS ARE SELECTED, INTERIM REPLACEMENT OF PLAYERS MAY OCCUR BY TRADE OR PURCHASE. A SPECIFIC FEE, WHICH MAY NOT EXCEED THE TOTAL ENTRANCE FEE, IS CHARGED FOR EACH TRANSACTION.

(4) A METHOD, AS DEFINED BY LEAGUE RULES, IS DEvised TO PERMIT EACH TEAM TO COMPETE AGAINST OTHER TEAMS IN THE LEAGUE. POINTS ARE AWARDED TO A TEAM ACCORDING TO THE PERFORMANCE OF INDIVIDUAL PLAYERS OR TEAMS OR BOTH DURING A DESIGNATED TIME PERIOD.

(5) A MEMBER MAY BE ELIGIBLE TO RECEIVE A PAYOUT BASED ON THE NUMBER OF POINTS ACCUMULATED. PAYOUTS, WHICH MAY BE IN THE FORM OF CASH OR PRIZES, ARE AWARDED ACCORDING TO LEAGUE RULES.

(6) RULES GOVERNING THE CONDUCT OF THE FANTASY SPORTS LEAGUE MUST BE PROVIDED IN WRITING TO EACH MEMBER.

NEW SECTION. **SECTION 22.** FANTASY SPORTS LEAGUES AUTHORIZED. IT IS LAWFUL TO CONDUCT OR PARTICIPATE IN A FANTASY SPORTS LEAGUE.

NEW SECTION. **SECTION 23.** PAYOUTS -- ADMINISTRATIVE FEES CHARGED BY COMMERCIAL ESTABLISHMENTS. (1) THE TOTAL VALUE OF PAYOUTS TO ALL LEAGUE MEMBERS MUST EQUAL THE AMOUNT COLLECTED FOR ENTRANCE, ADMINISTRATIVE, AND TRANSACTIONS FEES, MINUS PAYMENT FOR ADMINISTRATIVE EXPENSES.

(2) IF A COMMERCIAL ESTABLISHMENT CHARGES AN ADMINISTRATIVE FEE FOR CONDUCTING A FANTASY SPORTS LEAGUE, THE FEE FOR EACH PARTICIPANT MAY NOT BE MORE THAN 15% OF THE AMOUNT CHARGED AS A PARTICIPANT'S ENTRANCE FEE.

NEW SECTION. **SECTION 24.** SPORTS BETTING PROHIBITED -- APPLICABILITY. [SECTIONS 21 THROUGH 23] DO NOT:

(1) AUTHORIZE BETTING OR WAGERING ON THE OUTCOME OF AN INDIVIDUAL SPORTS EVENT; OR

(2) APPLY TO GAMBLING ACTIVITIES GOVERNED UNDER CHAPTER 4 OR CHAPTER 5, PART 2 OR 5, OF THIS TITLE.

NEW SECTION. **SECTION 25.** VIOLATIONS. A PERSON WHO PURPOSELY OR KNOWINGLY VIOLATES OR PROCURES, AID, OR ABETS IN A VIOLATION OF [SECTIONS 21 THROUGH 24] IS GUILTY OF A MISDEMEANOR PUNISHABLE UNDER 23-5-161.

SECTION 26. SECTION 23-5-114, MCA, IS AMENDED TO READ:

"23-5-114. Department employees -- activities prohibited. (1) An employee of the department,--a--former

1 ~~department--employee--during--the--first--365-days--following~~
 2 ~~termination--of--employment,--or--any--peace--officer--or~~
 3 prosecutor directly involved with the prosecution,
 4 investigation, regulation, or licensing of gambling, as
 5 designated by the attorney general, may not:

6 ~~{1}~~(a) serve as an officer or manager of a corporation
 7 business or organization, other than a nonprofit corporation
 8 or organization, that conducts a gambling activity, other
 9 than as an officer of a nonprofit organization;

10 (b) be employed by a licensed operator in any capacity
 11 that requires assisting in conducting a gambling activity
 12 regulated under parts 1 through 6 of this chapter or
 13 maintaining records for the gambling activity;

14 ~~{2}~~--receive--or--share--in, directly or indirectly, any
 15 ~~profit of a gambling activity regulated by the department;~~

16 {3}(c) have a beneficial or pecuniary interest in a
 17 contract for the manufacture, lease, or sale of a gambling
 18 device, the conduct of a gambling activity, or the provision
 19 of independent consultant services in connection with a
 20 gambling activity; or

21 (d) participate in a gambling activity governed by
 22 parts 1 through 6 of this chapter, except in performing
 23 assigned employment duties. An employee may participate in a
 24 gambling activity governed by part 10 of this chapter or
 25 chapter 4 of this title.

1 (2) The prohibitions in subsections (1)(a) through
 2 (1)(c) apply to a former designated department employee
 3 during the first year following termination from employment
 4 with the department if the employee was directly involved
 5 with the prosecution, investigation, regulation, or
 6 licensing of gambling immediately before termination."

7 **SECTION 27. SECTION 23-5-136, MCA, IS AMENDED TO READ:**

8 "23-5-136. Injunction and other remedies. (1) If a
 9 person has engaged or is engaging in an act or practice
 10 constituting a violation of a provision of parts 1 through 6
 11 of this chapter or a rule or order of the department, the
 12 department may:

13 (a) issue a temporary order to cease and desist from
 14 the gambling activity, act, or practice for a period not to
 15 exceed 60 days;

16 (b) following notice and an opportunity for hearing,
 17 and with the right of judicial review, under the Montana
 18 Administrative Procedure Act:

19 (i) issue a permanent order to cease and desist from
 20 the act or practice, which order remains in effect pending
 21 judicial review;

22 (ii) place a licensee on probation;

23 (iii) suspend for a period not to exceed 180 days a
 24 license or permit for the gambling activity, device, or
 25 enterprise involved in the act or practice constituting the

1 violation;

2 (iv) revoke a license or permit for the gambling
3 activity, device, or enterprise involved in the act or
4 practice constituting the violation;

5 (v) impose a civil penalty not to exceed \$10,000 for
6 each violation, whether or not the person is licensed by the
7 department; and

8 (vi) impose any combination of the penalties contained
9 in this subsection (1)(b); and

10 (c) bring an action in district court for relief
11 against the act or practice. The department may not be
12 required to post a bond. On proper showing, the court may:

13 (i) issue a restraining order, a temporary or permanent
14 injunction, or other appropriate writ;

15 (ii) suspend or revoke a license or permit; and

16 (iii) appoint a receiver or conservator for the
17 defendant or the assets of the defendant.

18 (2) The department may issue a warrant for distraint
19 against an operator who fails to pay a civil penalty imposed
20 under subsection (1) or a tax imposed under 23-5-409 or
21 23-5-610. The department may issue the warrant for the
22 amount of the unpaid penalty or for the amount of the unpaid
23 tax, plus penalty and accumulated interest on the tax, and
24 shall follow the procedures provided in 15-1-701 through
25 15-1-708.

1 ~~†2†~~(3) (a) A civil penalty imposed under this section
2 must be collected by the department and deposited--in--the
3 ~~state's--general-fund-as-required-by~~ distributed as provided
4 in 23-5-123. The local government portion of the penalty
5 payment is statutorily appropriated to the department, as
6 provided in 17-7-502, for deposit to the county or municipal
7 treasury.

8 (b) If a person fails to pay the civil penalty, the
9 amount due is a lien on the person's licensed premises and
10 gambling devices in the state and may be recovered by the
11 department in a civil action."

12 SECTION 28. SECTION 23-5-153, MCA, IS AMENDED TO READ:

13 "23-5-153. Possession and sale of antique slot
14 machines. (1) For the purposes of this section, an antique
15 slot machine is a mechanically or electronically operated
16 slot machine that at any present time is more than 25 years
17 old.

18 (2) Except as provided in subsection (3), an antique
19 slot machine may be possessed, located, and operated only in
20 a private residential dwelling.

21 (3) (a) An antique slot machine may be possessed or
22 located for purposes of display only and not for operation
23 in any public museum owned and operated by the state, a
24 county, or a city.

25 (b) A licensed manufacturer-distributor or a person

1 licensed under subsection (4) may possess and--sell antique
 2 slot machines for purposes of commercially selling or
 3 otherwise supplying the machines.

4 (4) A person other than a licensed
 5 manufacturer-distributor may not sell more than three
 6 antique slot machines in a 12-month period without first
 7 obtaining from the department an annual license for selling
 8 the machines. The fee for the license is \$50 a year. The fee
 9 must be retained by the department for administrative
 10 purposes. The department may not issue a license under this
 11 subsection to a licensed operator.

12 (5) A person or entity legally possessing a slot
 13 machine under subsection (2) or (3) may sell or otherwise
 14 supply a machine to another person or entity who may legally
 15 possess a slot machine.

16 †4†(6) An antique slot machine may not be operated for
 17 any commercial or charitable purpose."

18 **SECTION 29. SECTION 23-5-154, MCA, IS AMENDED TO READ:**

19 "23-5-154. Soliciting or--persuading--persons--to--play
 20 participation in illegal gambling device activity
 21 prohibited. A person who purposely or knowingly advertises
 22 for or solicits another person to play-or-engage-in-the
 23 participate in an illegal gambling enterprise or use of an
 24 illegal gambling device is guilty of a misdemeanor and is
 25 punishable under 23-5-161."

1 **SECTION 30. SECTION 23-5-156, MCA, IS AMENDED TO READ:**

2 "23-5-156. Obtaining anything of value by fraud or
 3 operation of illegal gambling device or enterprise. (1) A
 4 person who by-gambling in an activity involving gambling
 5 obtains money, property, or anything of value that does not
 6 exceed \$300 in value by misrepresentation, fraud, or the use
 7 of an illegal gambling device or an illegal gambling
 8 enterprise is guilty of a misdemeanor and is punishable as
 9 provided in 23-5-161.

10 (2) A person who by-gambling in an activity involving
 11 gambling obtains money, property, or anything of value that
 12 exceeds \$300 in value by misrepresentation, fraud, or the
 13 use of an illegal gambling device or an illegal gambling
 14 enterprise is guilty of a felony and is punishable as
 15 provided in 23-5-162."

16 **SECTION 31. SECTION 23-5-158, MCA, IS AMENDED TO READ:**

17 "23-5-158. Minors not to participate -- penalty --
 18 exception. (1) A Except as provided in subsection (2), a
 19 person may not purposely or knowingly allow a person under
 20 18 years of age to participate in a gambling activity.

21 †2† A person who violates this section subsection is
 22 guilty of a misdemeanor and must be punished in accordance
 23 with 23-5-161.

24 (2) A person under 18 years of age may sell or buy
 25 tickets for or receive prizes from a raffle conducted in

1 compliance with 23-5-413 if proceeds from the raffle, minus
 2 administrative expenses and prizes paid, are used to support
 3 charitable activities, scholarships or educational grants,
 4 or community service projects."

5 **SECTION 32. SECTION 23-5-162, MCA, IS AMENDED TO READ:**

6 "23-5-162. Criminal liabilities -- felony. (1) A person
 7 who purposely or knowingly violates a provision of parts 1
 8 through 6 of this chapter, the punishment for which is a
 9 felony, may upon conviction be fined not more than \$50,000
 10 or imprisoned for not more than 10 years, or both, for each
 11 violation.

12 (2) In addition to any penalty imposed under subsection
 13 (1), the department shall revoke all licenses or permits
 14 issued to the person under parts 1 through 6 of this chapter
 15 and may not issue the person another license or permit under
 16 parts 1 through 6 of this chapter."

17 **SECTION 33. SECTION 23-5-176, MCA, IS AMENDED TO READ:**

18 "23-5-176. Qualifications for licensure. (1) A person
 19 whom the department determines is qualified to receive a
 20 license under the provisions of this chapter, except for the
 21 provisions of part 10, may, based on information available
 22 to, required by, or supplied to the department under
 23 department rules, be issued a state gambling license.

24 (2) The Except as provided in subsection (4), the
 25 department shall issue a license unless the department can

1 demonstrate that the applicant is:

2 (a) is a person whose prior financial or other
 3 activities or criminal record:

4 (i) poses a threat to the public interest of the state
 5 or;

6 (ii) poses a threat to the effective regulation and
 7 control of gambling; or

8 ~~(iii)~~ (iii) creates a danger of illegal practices,
 9 methods, or activities in the conduct of gambling or in the
 10 carrying on of the business and financial arrangements
 11 incidental to gambling; or

12 (b) has been convicted of a felony offense within 5
 13 years of the date of application or is on probation or
 14 parole or under deferred prosecution for committing a felony
 15 offense; or

16 ~~(b)(c)~~ (c) is receiving a substantial amount of financing
 17 for the proposed operation from an unsuitable source. A
 18 lender or other source of money or credit that the
 19 department finds to meet the provisions of subsection (2)(a)
 20 may be considered an unsuitable source.

21 (3) The provisions of 37-1-203 and 37-1-205 do not
 22 apply to licensing determinations made under this section.

23 (4) The department may deny a license or permit to an
 24 applicant who has falsified a license or permit application.
 25 If the falsification is determined after the license or

1 permit has been issued, the department may revoke the
2 license or permit."

3 NEW SECTION. SECTION 34. ILLEGAL SALE, ASSIGNMENT,
4 LEASE, OR TRANSFER OF LICENSE -- PENALTY. A LICENSEE WHO
5 PURPOSELY OR KNOWINGLY SELLS, ASSIGNS, LEASES, OR TRANSFERS
6 A LICENSE OR PERMIT IN VIOLATION OF 23-5-110 IS GUILTY OF A
7 MISDEMEANOR PUNISHABLE IN ACCORDANCE WITH 23-5-161.

8 SECTION 35. SECTION 23-5-308, MCA, IS AMENDED TO READ:

9 "23-5-308. Card game dealers -- license. (1) A person
10 may not deal cards in a live card game of panguingue or
11 poker without being licensed annually by the department.

12 (2) The fee for the first year in which the license is
13 effective is \$75, and the annual renewal fee is \$25. The fee
14 may not be prorated.

15 (3) The department shall retain for administrative
16 purposes the license fee charged for the issuance of a
17 dealer's license.

18 (4) A licensed dealer shall have on his person, and
19 display upon request, his dealer's license when he is
20 working as a dealer.

21 (5) (a) The department shall adopt rules to implement
22 temporary licensing procedures until a permanent license is
23 issued to a dealer.

24 (b) The rules must provide that:

25 (i) a temporary license may be obtained at the place

1 where a person locally applies for a driver's license; and
2 that

3 (ii) the receipt received upon mailing by certified mail
4 an a completed license application for a permanent license
5 and the fee required under subsection (2) by certified mail,
6 return receipt requested, also constitutes a temporary
7 license.

8 (c) The department may not assess a fee for the
9 temporary license."

10 SECTION 36. SECTION 23-5-309, MCA, IS AMENDED TO READ:

11 "23-5-309. Presence-and-control-of-dealer Requirements
12 for conducting card games. (1) A Except as provided in
13 [section 37], a live card game may-not must be played except
14 on a live card game table in--the--presence--and--under--the
15 control--of--a--licensed--dealer for which a permit has been
16 issued and on the premises of a licensed operator.

17 (2) A live card game of panguingue or poker must be
18 played in the presence and under the control of a licensed
19 dealer."

20 NEW SECTION. SECTION 37. TOURNAMENTS. (1) SUBJECT TO
21 THE DEPARTMENT'S APPROVAL, A LICENSED OPERATOR WHO HAS A
22 PERMIT FOR PLACING AT LEAST 1 LIVE CARD GAME TABLE ON HIS
23 PREMISES MAY CONDUCT UP TO 12 LIVE CARD GAME TOURNAMENTS A
24 YEAR ON HIS PREMISES. EACH TOURNAMENT MAY BE CONDUCTED FOR
25 NO MORE THAN 5 CONSECUTIVE DAYS. IF AN OPERATOR CONDUCTS

1 MORE THAN ONE TOURNAMENT A YEAR, AT LEAST 7 DAYS MUST LAPSE
 2 BETWEEN THE CONCLUSION OF ONE TOURNAMENT AND THE BEGINNING
 3 OF THE NEXT TOURNAMENT.

4 (2) (A) ~~AT-LEAST-10-DAYS-BEFORE~~ BEFORE THE START OF A
 5 TOURNAMENT, THE OPERATOR SHALL SUBMIT TO THE DEPARTMENT AN
 6 APPLICATION FOR A TOURNAMENT PERMIT. THE PERMIT APPLICATION
 7 MUST BE ACCOMPANIED BY A \$10 FEE. THE DEPARTMENT SHALL
 8 RETAIN THE FEE FOR ADMINISTRATIVE PURPOSES.

9 (B) IF A TOURNAMENT IS TO BE CONDUCTED ON THE PREMISES
 10 OF MORE THAN ONE LICENSED OPERATOR, EACH OPERATOR SHALL
 11 SUBMIT A PERMIT APPLICATION AND PROCESSING FEE. THE PERMIT
 12 IS APPLIED TOWARD EACH OPERATOR'S ANNUAL 12-TOURNAMENT
 13 LIMIT.

14 (3) PERMITS FOR PLACEMENT OF ADDITIONAL LIVE CARD GAME
 15 TABLES, AS PROVIDED IN 23-5-306, ARE NOT REQUIRED FOR
 16 ADDITIONAL TABLES AUTHORIZED UNDER A TOURNAMENT PERMIT.

17 (4) TOURNAMENT PARTICIPANTS MUST BE PROVIDED WITH A
 18 COPY OF THE TOURNAMENT RULES BEFORE THE START OF THE
 19 TOURNAMENT. A COPY OF THE RULES MUST BE POSTED IN A
 20 CONSPICUOUS LOCATION IN EACH AREA WHERE THE TOURNAMENT IS
 21 CONDUCTED.

22 (5) A PERSON MUST BE PRESENT ON THE PREMISES DURING THE
 23 TOURNAMENT TO OVERSEE THE CONDUCT OF THE CARD GAMES AND TO
 24 SETTLE DISPUTES AMONG PLAYERS. THIS PERSON MAY BE A DEALER
 25 LICENSED UNDER 23-5-308.

1 (6) A LICENSED OPERATOR MAY CHARGE A TOURNAMENT
 2 PARTICIPANT AN ENTRY FEE, WHICH MAY INCLUDE A FEE TO COVER
 3 EXPENSES INCURRED IN CONDUCTING THE TOURNAMENT. A
 4 PARTICIPANT WHO HAS BEEN ELIMINATED FROM COMPETITION DURING
 5 THE TOURNAMENT MAY REENTER THE TOURNAMENT BY PAYING AN
 6 ADDITIONAL FEE IF PERMITTED TO DO SO UNDER TOURNAMENT RULES.
 7 A RAKE-OFF MAY NOT BE TAKEN DURING A TOURNAMENT CARD GAME.

8 (7) THE FACE VALUE OF THE CHIPS USED DOES NOT GOVERN
 9 THE VALUE OF THE POT AWARDED AT THE END OF THE TOURNAMENT.

10 (8) THE PROVISIONS OF THIS PART AND THE DEPARTMENT
 11 RULES GOVERNING LIVE CARD GAMES APPLY TO LIVE CARD GAMES
 12 CONDUCTED AS PART OF A TOURNAMENT UNLESS OTHERWISE PROVIDED.

13 SECTION 38. SECTION 23-5-406, MCA, IS AMENDED TO READ:

14 "23-5-406. Exempt charitable organizations and
 15 facilities. (1) (a) An organization qualified-for granted an
 16 exemption under 26 U.S.C. 501(c)(3) and, (c)(4), (c)(8), or
 17 (c)(19):

18 (i) on or before January 15, 1989, is exempt from the
 19 taxation and license--fees the permit fee imposed by this
 20 part--An-organization-qualified--for--exemption--under--that
 21 section;

22 (ii) after that--date January 15, 1989, is exempt from
 23 taxation under, and need-only-pay one-half the license--fees
 24 under, permit fee imposed by this part if the organization
 25 carries on gambling activities for no more than 60 days a

1 calendar year ~~and-if-the.~~

2 (b) An organization provided for in subsection (1)(a)
3 shall:

4 (i) limit its live bingo and keno activities are
5 limited to its main premises or place of operations and to
6 events at other places operated by other charitable
7 organizations or by a government unit or entity;--The
8 organization-shall;

9 (ii) comply with other statutes and rules relating to
10 the operation of live bingo and keno or-raffies;--A-qualified
11 organization-shall; and

12 (iii) apply to the department for a cost-free permit to
13 conduct charitable live bingo and or keno games or-raffies.

14 (2) A long-term care facility, as defined in 50-5-101,
15 or a retirement home or-senior-citizen-center, as defined in
16 subsection (4), that has obtained an operator's license and
17 a permit from the department to operate live bingo or keno
18 is exempt from taxation and the permit fee imposed by this
19 part if the facility:

20 (a) limits participation in live bingo and keno games
21 to persons using the facility and their guests;

22 (b) limits live bingo or keno activities to its main
23 premises or place of operation; and

24 (c) complies with other statutes and rules relating to
25 the operation of live bingo and keno.

1 (3) The department may revoke or suspend the permit of
2 a-qualified an organization or a facility provided for in
3 subsection (1) or (2) if that, after investigation, the
4 department determines that the organization or facility is
5 contracting operating or has contracted with a nonqualified
6 organization to-operate that is operating live bingo or
7 keno-or-raffies in a predominantly commercial manner.

8 (4) For purposes of this section:

9 (a), "retirement home" means a building in which
10 sleeping rooms without cooking facilities in each room are
11 rented to three or more persons who are 60 years of age or
12 older and who do not need skilled nursing care, intermediate
13 nursing care, or personal nursing care, as defined in
14 50-5-101;-and

15 (b)--"senior--citizen--center"--means-a-facility-operated
16 by-a-nonprofit-or-governmental--organization--that--provides
17 services--to--senior--citizens--in--the--form--of--daytime-or
18 evening-educational-or-recreational-activities-and-does-not
19 provide--living--accommodations--to--senior-citizens-or-sell
20 food-or-beverages-under-a-license-furnished-by-the-state;
21 Services--qualifying--under--this--subsection--(b)--must--be
22 recognized--in--the--state-plan-on-aging--adopted--by--the
23 department-of-family-services."

24 **SECTION 39. SECTION 23-5-407, MCA, IS AMENDED TO READ:**

25 **"23-5-407. Live bingo or keno permit -- fees --**

1 disposition of fees. (1) A person who has been granted an
2 operator's license may be granted an annual permit by the
3 department to conduct live bingo or keno games on specified
4 premises. The permit expires June 30 of each year.

5 (2) The permit fee for each ~~of-the~~ premises in which a
6 live bingo or keno game is conducted ~~may-not-be-processed-and~~
7 ~~must-be-\$500~~ is \$250.

8 (3) The department shall retain the permit fee for
9 administrative costs purposes."

10 SECTION 40. SECTION 23-5-409, MCA, IS AMENDED TO READ:

11 "23-5-409. Bingo and keno tax -- records --
12 distribution -- statement and payment. (1) A licensee who
13 has received a permit to operate bingo or keno games shall
14 pay to the department a tax of 5% 1% of the net-income gross
15 proceeds from the operation of each live bingo and keno game
16 operated on his premises. ~~For-purposes-of-this-section,-"net~~
17 ~~income"-means-gross-proceeds,-as-defined-in-23-5-112,-minus~~
18 ~~the--cost-of-equipment,-supplies,-personnel,-and-advertising~~
19 ~~allocated-to-the-games,-if-in-any-year-5%-of-net-income-does~~
20 ~~not-equal-1%-of-gross-proceeds,-then-the-licensee-shall-pay~~
21 ~~a-tax-of-1%-of-gross-proceeds.~~

22 (2) A licensee shall keep a record of gross proceeds
23 and-net-income in the form the department requires. At all
24 times during the business hours of the licensee the records
25 must be available for inspection by the department.

1 (3) A licensee shall annually complete and deliver to
2 the department a statement showing the total gross proceeds
3 and-net-income for each live keno or bingo game operated by
4 him and the total amount due as live bingo or keno tax for
5 the preceding year. This statement must contain any other
6 relevant information required by the department.

7 (4) The department shall forward the tax collected
8 under subsection (3) to the treasurer of the county or the
9 clerk, finance officer, or treasurer of the city or town in
10 which the licensed game is located for deposit to the county
11 or municipal treasury. A county is not entitled to proceeds
12 from taxes on live bingo or keno games located in
13 incorporated cities and towns within the county. The tax
14 collected under subsection (3) is statutorily appropriated
15 to the department, as provided in 17-7-502, for deposit to
16 the county or municipal treasury."

17 SECTION 41. SECTION 23-5-412, MCA, IS AMENDED TO READ:

18 "23-5-412. Card prices and prizes -- exception. The (1)
19 Except as provided in subsection (3):

20 (a) the price for an individual bingo or keno card may
21 not exceed 50 cents. ~~Bingo-prizes-may-be-paid-in-either~~
22 ~~tangible-personal-property-or-cash-A;~~

23 (b) a prize may not exceed the value of \$100 for each
24 individual bingo award or keno card. ~~it; and~~

25 (c) it is unlawful to, in any manner, combine any

awards so as to increase the ultimate value of the award.

(2) Bingo and keno prizes may be paid in either tangible personal property or cash.

(3) A variation of the game of keno, as approved by the department, in which a player selects three or more numbers and places a wager on various combinations of these numbers is permissible if:

(a) no more than 50 cents is wagered on each combination of numbers; and

(b) a winning combination does not pay more than \$100.

(4) A player may give the a keno caller a card with instructions on the card to play that card and its marked numbers for up to the number of successive games that the house allows and that the player has indicated on the card, upon payment of the price per game times the number of successive games indicated. The player shall remain on the house premises until the card is played or withdrawn. The caller shall keep the card until the end of the number of games indicated, and the department may by rule provide that at that time the caller shall pay the player any prizes won."

SECTION 42. SECTION 23-5-413, MCA, IS AMENDED TO READ:

"23-5-413. Raffle prizes -- permits -- exception. (1) Raffle-prizes-may-not-exceed-the-value-of--\$5,000--for--each individual--raffle-ticket--it-is-unlawful-to--in-any-manner,

~~combine-any-awards-so-as-to-increase-the-ultimate--value--of the-prize-awarded-for-each-ticket-~~

~~(2)(1) (a) A--separate Except as provided in subsection (1)(b), a permit must be issued by the board of county commissioners for each raffle conducted within its jurisdiction. The permit must be issued before the raffle may be conducted. The board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a religious corporation sole or nonprofit organization if the organization presents sufficient documentation of its nonprofit status.~~

~~(b) If tickets for a raffle are to be sold in more than one county, a permit must be obtained only in the county where the winners of the raffle are to be determined.~~

~~(2) Except for a religious corporation sole or nonprofit organization, a person or organization conducting a raffle shall own all prizes to be awarded as part of the raffle before the sale of any tickets.~~

~~(3) A person who has conducted a raffle must submit an accounting to the board of county commissioners within 30 days following the completion of the raffle.~~

~~(4) The sale of raffle tickets authorized by this part is restricted to events and participants within the geographic confines of the state.~~

~~(5) The value of a prize awarded for an individual~~

ticket for a raffle conducted by a person or an organization, other than a religious corporation sole or nonprofit organization may not exceed \$5,000. The prize may be in the form of cash, other intangible personal property, tangible personal property, or real property. Prizes may not be combined in any manner to increase the ultimate value of the prize awarded for each ticket.

~~{3}--(a)-The restrictions of subsection (1) do not apply to a raffle conducted by a nonprofit corporation;~~

(6) (a) In addition to complying with the requirements of subsections (1) through (5), a religious corporation sole, or other nonprofit organization as defined in 23-5-112 if the corporation or organization is permitted by the board of county commissioners to conduct the raffle, the board of county commissioners may not charge a permit fee or an investigative fee for a raffle conducted by a nonprofit veterans' organization;

~~{b}--The nonprofit organization or corporation seeking permission under subsection (3)(a) shall apply provide the following information to the board of county commissioners when applying for the a raffle permit and provide the following information:~~

(i) the cost and number of raffle tickets to be sold;

(ii) the charitable purposes the proceeds of the raffle are intended to benefit; and

(iii) the proposed prizes and their value.

~~{c}--A veterans' organization seeking exemption from the permit fee or an investigative fee shall present evidence of the organization's nonprofit status to the board of county commissioners;~~

~~{d}(b) The proceeds from the sale of the raffle tickets for a raffle conducted by a religious corporation sole or a nonprofit organization may be used only for charitable purposes or to pay for prizes. The raffle prize must be in tangible personal property only and not in money, cash, stock, bonds, evidence of indebtedness, or other intangible personal property. None of the proceeds Proceeds may not be used for the administrative cost of conducting the raffle.~~

(c) The value of a prize awarded for an individual ticket for a raffle conducted by a religious corporation sole or nonprofit organization may equal or exceed \$5,000 if the prize is in the form of tangible personal property. If the value of the prize is less than \$5,000, the prize may be in the form of cash, other intangible personal property, tangible personal property, or real property."

SECTION 43. SECTION 23-5-501, MCA, IS AMENDED TO READ:

"23-5-501. Definitions ~~Definition~~ **DEFINITIONS.** As used in this part, unless the context clearly requires otherwise, ~~the following definitions apply:~~ THE FOLLOWING DEFINITIONS APPLY:

(1) "Nonprofit organization" means a charitable, religious, scholastic, educational, veterans', fraternal, beneficial, civic, or service organization, other than one established for the purpose of conducting or participating in a sports pool.

(2) "Sports (1) sports pool" means a card divided into squares or spaces, with the names of the participants in the pool written within such squares or spaces, for gambling activity, other than an activity governed under chapter 4 or chapter 5, part 2 of this title in which consideration in a person wagers money is paid by the person playing for each square or space for the chance to win money or other items of value based on any the outcome of a sports event or series of sports events wherein the participants competitors in such the sports event or series of sports events are natural persons or animals.

(2) "SPORTS TAB" MEANS A FOLDED OR BANDED TICKET WITH A FACE COVERED TO CONCEAL A COMBINATION OF TWO NUMBERS, WITH EACH NUMBER RANGING FROM ZERO THROUGH NINE.

(3) "SPORTS TAB GAME" MEANS A GAMBLING ENTERPRISE CONDUCTED ON A CARD TO WHICH 100 SPORTS TABS ARE ATTACHED THAT HAVE 100 DIFFERENT COMBINATIONS FOR WHICH CONSIDERATION IN MONEY IS PAID BY THE PERSON PLAYING FOR PURCHASING EACH TAB. A PERSON MAY PURCHASE A SPORTS TAB FROM THE CARD FOR THE CHANCE TO WIN MONEY OR OTHER ITEMS OF VALUE ON A SPORTS

EVENT AS PROVIDED IN 23-5-503."

NEW SECTION. **SECTION 44.** SPORTS POOL DESIGN --
DEPARTMENT RULES. (1) A SPORTS POOL MUST BE DESIGNED TO ENSURE THAT:

(A) THERE IS AT LEAST ONE WINNER FROM AMONG THE PARTICIPANTS IN THE POOL; AND

(B) EACH PARTICIPANT HAS AN EQUAL CHANCE TO WIN THE POOL.

(2) COMPETITORS IN A SPORTS EVENT OR SERIES OF SPORTS EVENTS MAY MUST BE RANDOMLY ASSIGNED TO EACH PARTICIPANT IN THE SPORTS POOL.

(3) THE DEPARTMENT SHALL BY RULE DESCRIBE THE TYPES OF SPORTS POOLS AUTHORIZED BY THIS PART. VARIATIONS IN THE AUTHORIZED SPORTS POOLS MUST BE SUBMITTED TO THE DEPARTMENT FOR REVIEW AND APPROVAL BEFORE THEY ARE MADE AVAILABLE FOR PUBLIC PLAY.

SECTION 45. SECTION 23-5-503, MCA, IS AMENDED TO READ:

"23-5-503. Rules. (1) The card or other device used for recording the sports pool OR SPORTS TAB GAME and upon which the squares or spaces appear shall must clearly indicate in advance of the sale of any chances the number of chances to be sold in that specific pool, the name of the event or series of events, the consideration to be paid for each chance, and the total amount or percentage to be paid to the winners. THE SPORTS TABS MUST BE PURCHASED FROM A

1 MANUFACTURER LICENSED UNDER 23-5-152.

2 (2) A chance to participate in a sports pool may not be
 3 sold other than upon the premises in which the sports pool
 4 is conducted. An individual Each A EACH SPORTS TAB OR A
 5 chance to participate in a sports pool may not must be sold
 6 for a consideration in excess of the same amount, which may
 7 not exceed \$5, and the total amount to be paid to the all
 8 winners of any individual sports pool OR SPORTS TAB GAME may
 9 not exceed the value of \$500. Chances for a series of events
 10 may be purchased all at once prior to the occurrence of the
 11 first event.

12 (3) (a) Except as provided in subsection (3)(b), the
 13 winner winners of any sports pool shall receive a 100%
 14 payout of the value of the sports pool. THE WINNER OF A
 15 SPORTS TAB GAME MUST RECEIVE A 100% PAYOUT OF THE VALUE OF
 16 THE SPORTS TAB GAME, LESS THE OPERATOR'S COST OF PURCHASING
 17 THE GAME AT LEAST 90% OF THE TOTAL COST OF THE 100 SPORTS
 18 TABS. THE OPERATOR OF THE SPORTS TAB GAME MAY RETAIN THE
 19 REMAINING MONEY FOR ADMINISTRATION AND OTHER EXPENSES.

20 (3)(b) A nonprofit organization that maintains records
 21 and opens the records to inspection upon reasonable demand
 22 records to verify that the retained portion is used to
 23 support charitable activities, scholarships or educational
 24 grants, or community service projects may retain up to 50%
 25 of the value of a sports pool OR SPORTS TAB GAME.

1 (4) A person or nonprofit organization conducting a
 2 sports pool OR SPORTS TAB GAME may purchase chances OR
 3 SPORTS TABS to participate in the sports pool OR SPORTS TAB
 4 GAME but may not:

5 (a) retain any portion of the amount wagered in the
 6 sports pool OR SPORTS TAB GAME, except as provided in
 7 subsection (3)(b);

8 (b) charge a fee for participating in the sports pool
 9 OR SPORTS TAB GAME; or

10 (c) use the sports pool OR SPORTS TAB GAME in any
 11 manner to establish odds or handicaps or to allow betting or
 12 booking against the person or nonprofit organization
 13 conducting the pool OR GAME."

14 SECTION 46. SECTION 23-5-603, MCA, IS AMENDED TO READ:

15 "23-5-603. Video gambling machines -- possession --
 16 play -- restriction. (1) A person licensed operator may make
 17 available for public play only the number of approved video
 18 gambling machines specifically authorized by this part.

19 (2) The video gambling machines specifically authorized
 20 by this part are bingo, keno, and draw poker machines. Only
 21 the number of approved machines for which permits have been
 22 granted under 23-5-612 may be made available for play by the
 23 public on the premises of a licensed operator. The
 24 department shall adopt rules allowing a video gambling
 25 machine that needs repair to be temporarily replaced while

1 it is being repaired with a video gambling machine that is
2 approved under the permit provisions of this part. A fee may
3 not be charged for the replacement machine.

4 (3) Machines on premises licensed to sell alcoholic
5 beverages for on-premises consumption on-the-premises must
6 be placed:

7 (a) in the a room, area, or other part of the premises
8 in which the alcoholic beverages are sold and-normally or
9 consumed; and

10 (b) within control of the operator for the purpose of
11 preventing access to the machines by persons under 18 years
12 of age."

13 **SECTION 47. SECTION 23-5-610, MCA, IS AMENDED TO READ:**

14 "23-5-610. Video gambling machine net gross income tax
15 -- records -- distribution -- quarterly statement and
16 payment. (1) An A licensed operator issued a permit under
17 this part shall pay to the department a video gambling
18 machine tax of 15% of net-machine the gross income from each
19 video gambling machine licensed under this part. A licensed
20 operator may deduct from the gross income amounts equal to
21 amounts stolen from machines if the amounts are not repaid
22 by insurance and if a law enforcement agency investigated
23 the theft.

24 (2) An A licensed operator issued a permit under this
25 part shall keep a record of net--machine the gross income

1 from each machine in such form as the department may
2 require. The records must at all times during the business
3 hours of the licensee be subject to inspection by the
4 department.

5 (3) An A licensed operator issued a permit under this
6 part shall, within 15 days after the end of each quarter,
7 complete and deliver to the department a statement showing
8 the total net-machine gross income from each video gambling
9 machine licensed to him, together with the total amount due
10 the state as video gambling machine net gross income tax for
11 the preceding quarter. The statement must contain other
12 relevant information as the department may require.

13 (4) (a) The department shall forward one-third of the
14 tax collected under subsection (3) to the general fund.

15 (b) The department shall forward the remaining
16 two-thirds of the tax collected under subsection (3) to the
17 treasurer of the county or the clerk, finance officer, or
18 treasurer of the city or town in which the licensed machine
19 is located, for deposit to the county or municipal treasury.
20 Counties are not entitled to proceeds from taxes on income
21 from video gambling machines located in incorporated cities
22 and towns. The two-thirds local government portion of tax
23 collected under subsection (3) is statutorily appropriated
24 to the department as provided in 17-7-502 for deposit to the
25 county or municipal treasury."

SECTION 48. SECTION 23-5-611, MCA, IS AMENDED TO READ:

"23-5-611. Machine permit qualifications -- limitations. (1) (a) A person who has been granted an operator's license under 23-5-177 and a license to sell alcoholic beverages for consumption on the premises may be granted a permit for the placement of video gambling machines in his premises.

(b) If video keno or bingo gambling machines were legally operated on a premises on January 15, 1989, and the premises were not on that date licensed to sell alcoholic beverages for consumption on the premises or operated for the principal purpose of gaming and there is an operator's license for the premises under 23-5-177, a permit for the same number of video keno or bingo gambling machines as were operated on the premises on that date may be granted to the person who held the permit for such machines on those premises on that date.

(c) A person who legally operated an establishment on January 15, 1989, for the principal purpose of gaming and has been granted an operator's license under 23-5-177 may be granted a permit for the placement of bingo and keno machines in his premises.

(2) An applicant for a permit shall disclose on the application form to the department any information required by the department consistent with the provisions of

23-5-176.

(3) A licensee may not have on the premises or make available for play on the premises more than 20 machines of any combination ~~and no more than 10 may be draw poker machines.~~"

SECTION 49. SECTION 23-5-612, MCA, IS AMENDED TO READ:

"23-5-612. Machine permits -- fee. (1) The department, upon payment of the fee provided in subsection (2) and in conformance with rules adopted under this part, shall issue to the operator a an annual permit for an approved video gambling machine.

(2) The department shall charge an annual permit fee of \$200 for each video gambling machine permit. The fee must be prorated on a quarterly basis but may not be prorated to allow a permit to expire before June 30. The department may not grant a refund if the video gambling machine ceases operation before the permit expires.

(3) The department shall retain ~~\$100~~ 50% of the total permit fee collected under subsection (2) for purposes of administering this part. The remaining-\$100 balance must be returned on a quarterly basis to the local government jurisdiction in which the gambling machine is located. The local government portion of the fee is statutorily appropriated to the department, as provided in 17-7-502, for deposit in the local government treasury.

~~{3}--The permit expires on June 30 of each year, and the fee may not be prorated.~~

~~{4}--A used keno machine may be licensed under subsection {1} without meeting the requirements of 23-5-609 [as that section read on September 30, 1989] if the applicant for licensure can establish to the satisfaction of the department that, on the date of application, he owns or possesses a machine that was owned or operated in the state prior to June 30, 1987. A license issued under this subsection expires for all purposes no later than June 30, 1989."~~

SECTION 50. SECTION 23-5-625, MCA, IS AMENDED TO READ:

"23-5-625. Video gambling machine manufacturer-distributor -- license -- fees. (1) It (a) Except as provided in subsections (2) and (3), it is unlawful for any person to assemble, produce, manufacture, or supply any video gambling machine or associated equipment for use or play in the state without having first been issued a video gambling machine manufacturer-distributor's license by the department. A licensed manufacturer-distributor may supply a video gambling machine only to another licensed manufacturer-distributor or a licensed operator.

~~{2}(b)~~ The department shall charge an annual license fee of \$1,000 for the issuance or renewal of a video

gambling machine manufacturer-distributor's license.

~~{3}(c)~~ In addition to other license fees, the department may charge the applicant a one-time video gambling machine manufacturer-distributor's license application processing fee. The processing fee may not exceed the department's actual costs for processing an application.

~~{4}(d)~~ All video gambling machine manufacturer-distributor's licenses expire on June 30 of each year, and the license fee may not be prorated.

~~{5}(e)~~ The department shall retain the license and processing fees collected for purposes of administering this part, unless otherwise provided.

(2) A licensed operator who is not licensed as a manufacturer-distributor may sell up to 20 video gambling machines in a calendar year if the operator:

(a) had obtained permits for the machines and legally operated them prior to the sale; and

(b) sells the machines to another licensed operator or a licensed manufacturer-distributor.

(3) A lienholder who acquires title to video gambling machines through a foreclosure action involving a licensed operator or manufacturer-distributor may sell the machines to a licensed operator or licensed manufacturer-distributor."

SECTION 51. SECTION 23-5-631, MCA, IS AMENDED TO READ:

"23-5-631. Examination and approval of new video gambling machines and associated equipment -- fee. (1) The department shall examine and may approve a new video gambling machine and associated equipment which are manufactured, sold, or distributed for use in the state before the video gambling machine or associated equipment is sold, played, or used.

(2) A video gambling machine or associated equipment may not be examined or approved by the department until the video gambling machine manufacturer-distributor is licensed as required in 23-5-625.

(3) All video gambling machines approved by the department of commerce prior to October 1, 1989, must be considered approved under this part.

(4) The department shall require the manufacturer-distributor seeking the examination and approval of a new video gambling machine or associated equipment to pay the anticipated actual costs of the examination in advance and, after the completion of the examination, shall refund overpayments or charge and collect amounts sufficient to reimburse the department for underpayments of actual costs.

(5) Payments received under subsection (4) are statutorily appropriated to the department, as provided in

17-7-502, to defray the costs of examining and approving video gambling machines and associated equipment and to issue refunds for overpayments.

~~(5)~~(6) The department may inspect and test and approve, disapprove, or place a condition upon a video gambling machine prior to its distribution and placement for play by the public."

SECTION 52. SECTION 17-7-502, MCA, IS AMENDED TO READ:

"17-7-502. Statutory appropriations -- definition -- requisites for validity. (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 13-37-304; 15-1-111; 15-25-123; 15-31-702; 15-36-112; 15-37-117; 15-65-121;

1 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-212; 17-5-404;
 2 17-5-424; 17-5-804; 19-8-504; 19-9-702; 19-9-1007;
 3 19-10-205; 19-10-305; 19-10-506; 19-11-512; 19-11-513;
 4 19-11-606; 19-12-301; 19-13-604; 20-6-406; 20-8-111;
 5 20-9-361; 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612;
 6 23-5-631; 23-5-1016; 23-5-1027; 27-12-206; 37-51-501;
 7 39-71-2504; 53-6-150; 53-24-206; 61-2-406; 61-5-121;
 8 67-3-205; 75-1-1101; 75-5-1108; 75-11-313; 76-12-123;
 9 80-2-103; 82-11-136; 82-11-161; 90-3-301; 90-4-215;
 10 90-4-613; 90-6-331; 90-9-306; and section 13, House Bill No.
 11 861, Laws of 1985.

12 (4) There is a statutory appropriation to pay the
 13 principal, interest, premiums, and costs of issuing, paying,
 14 and securing all bonds, notes, or other obligations, as due,
 15 that have been authorized and issued pursuant to the laws of
 16 Montana. Agencies that have entered into agreements
 17 authorized by the laws of Montana to pay the state
 18 treasurer, for deposit in accordance with 17-2-101 through
 19 17-2-107, as determined by the state treasurer, an amount
 20 sufficient to pay the principal and interest as due on the
 21 bonds or notes have statutory appropriation authority for
 22 such payments. (In subsection (3), pursuant to sec. 10, Ch.
 23 664, L. 1987, the inclusion of 39-71-2504 terminates June
 24 30, 1991.)"

25 **SECTION 53. SECTION 2-15-2021, MCA, IS AMENDED TO READ:**

1 "2-15-2021. Gaming advisory council -- allocation --
 2 composition -- compensation -- annual biennial report. (1)
 3 There is a gaming advisory council.

4 (2) The gaming advisory council is allocated to the
 5 department for administrative purposes only as prescribed in
 6 2-15-121.

7 (3) The gaming advisory council consists of nine
 8 members. One member must be from the senate, and one member
 9 must be from the house of representatives. The senate
 10 committee on committees and the speaker of the house of
 11 representatives shall appoint the legislative members of the
 12 council. The seven remaining members must be appointed by
 13 the department, with one representing the public at large,
 14 two representing local governments, one being a Native
 15 American, and three representing the gaming industry.

16 (4) Each gaming advisory council member is appointed to
 17 a 3-year term of office, except that three of the
 18 first-appointed original members shall serve a 1-year term,
 19 three (including both legislative members) shall serve a
 20 2-year term, and three shall serve a 3-year term. A member
 21 of the council may be removed for good cause by the
 22 appointing body provided for in subsection (3).

23 (5) The gaming advisory council shall appoint a
 24 chairman from its members.

25 (6) Legislative members of the gaming advisory council

1 are entitled to compensation and expenses, as provided in
2 5-2-302, while the council is meeting. The remaining members
3 are entitled to travel, meals, and lodging expenses as
4 provided for in 2-18-501 through 2-18-503. Expenses of the
5 council must be paid from licensing fees received by the
6 department.

7 (7) The gaming advisory council shall, within its
8 authorized budget, hold meetings and incur expenses as it
9 considers necessary to study all aspects of gambling in the
10 state.

11 (8) (a) The gaming advisory council shall submit an
12 ~~annual~~ a biennial report to the department, at a time
13 designated by the department, with recommendations for
14 amendments to the gambling statutes, the need for additional
15 or modified department rules, the clarification of existing
16 rules, and other recommendations on the operation of the
17 department or any other gambling-related matter.

18 (b) The ~~annual~~ biennial report required under
19 subsection (8)(a) must be affixed to the ~~annual~~--department
20 report on gambling in the state that the department submits
21 that year. The department and council shall submit the two
22 most recent department and council reports to each of the
23 next two regular sessions of the legislature.

24 (c) The council may submit interim reports to the
25 department as the council considers necessary.

1 (d) The council shall meet with the department upon
2 request of the department.

3 (e) The department shall meet with the council upon
4 request of the council.

5 (9) The department shall give each council member
6 notice and a copy of each proposed change in administrative
7 rules relating to gambling. The notice and copy must be
8 given at the time a notice of proposed rules changes is
9 filed with the secretary of state. The council shall review
10 the proposal, may comment on it, and may attend any hearing
11 on the proposal. The department shall consider any comment
12 by any council member or by the council as a whole prior to
13 adopting the proposed change."

14 **SECTION 54. SECTION 23-5-602, MCA, IS AMENDED TO READ:**

15 "23-5-602. Definitions. As used in this part, the
16 following definitions apply:

17 (1) "Associated equipment" means all proprietary
18 devices, machines, or parts used in the manufacture or
19 maintenance of a video gambling machine, including but not
20 limited to integrated circuit chips, printed wired assembly,
21 printed wired boards, printing mechanisms, video display
22 monitors, metering devices, and cabinetry.

23 (2) "Bingo machine" means an electronic video gambling
24 machine that, upon insertion of cash, is available to play
25 bingo as defined by rules of the department. The machine

utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(3) "Draw poker machine" means an electronic video gambling machine that, upon insertion of cash, is available to play or simulate the play of the game of draw poker as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(4) "Keno machine" means an electronic video gambling machine that, upon insertion of cash, is available to play keno as defined by rules of the department. The machine utilizes a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash. The term does not include a slot machine or a machine that directly dispenses coins, cash, tokens, or anything else of value.

(5) "Net-machine Gross income" means money put into a

video gambling machine minus credits paid out in cash.

(6) "Video gambling machine manufacturer-distributor" means a person who assembles, produces, makes, or supplies video gambling machines or associated equipment for sale, use, or distribution in the state."

NEW SECTION. SECTION 55. FISHING DERBIES AND WAGERING ON NATURAL OCCURRENCES. (1) THE FOLLOWING ARE AUTHORIZED GAMBLING ACTIVITIES:

(A) A FISHING DERBY IN WHICH TWO OR MORE PERSONS PAY VALUABLE CONSIDERATION FOR AN OPPORTUNITY TO WIN A PRIZE FOR THE SPECIES, SIZE, WEIGHT, OR OTHERWISE SPECIFIED FISH CAUGHT IN A FISHING EVENT; AND

(B) WAGERING ON THE OUTCOME OF A NATURAL OCCURRENCE IN WHICH TWO OR MORE PERSONS PAY VALUABLE CONSIDERATION FOR AN OPPORTUNITY TO WIN A PRIZE BY MOST ACCURATELY PREDICTING THE DATE OR TIME OF AN EVENT RESULTING FROM A CLIMATOLOGICAL OR METEOROLOGICAL ACTIVITY.

(2) EXCEPT AS PROVIDED IN SUBSECTION (3), ALL CONSIDERATION PAID TO PARTICIPATE IN A GAMBLING ACTIVITY AUTHORIZED IN SUBSECTION (1) MUST BE PAID TO THE WINNERS.

(3) A NONPROFIT ORGANIZATION SPONSORING A GAMBLING ACTIVITY AUTHORIZED IN SUBSECTION (1) MAY RETAIN UP TO 50% OF THE TOTAL AMOUNT PAID TO PARTICIPATE.

(4) THIS SECTION DOES NOT APPLY TO A GAMBLING ACTIVITY CONDUCTED UNDER CHAPTER 4 OR CHAPTER 5, PART 2 OR 3 OF THIS

1 TITLE.2 SECTION 56. SECTION 23-5-502, MCA, IS AMENDED TO READ:

3 "23-5-502. Sports pools and sports tab games
 4 authorized -- TAX. (1) Conducting or participating in
 5 sports pools and sports tab games as defined and governed in
 6 this part is lawful, EXCEPT THAT SPORTS TAB GAMES MAY ONLY
 7 BE CONDUCTED ON PREMISES LICENSED TO SELL ALCOHOLIC
 8 BEVERAGES FOR CONSUMPTION ON THE PREMISES.

9 (2) A MANUFACTURER LICENSED UNDER 23-5-152 WHO SELLS
 10 SPORTS TABS TO A LICENSED OPERATOR FOR USE IN A SPORTS TAB
 11 GAME SHALL COLLECT FROM THE OPERATOR, AT THE TIME OF SALE, A
 12 TAX OF \$1 FOR EACH 100 SPORTS TABS SOLD AND, WITHIN 15 DAYS
 13 AFTER THE END OF EACH CALENDAR QUARTER, SUBMIT TO THE
 14 DEPARTMENT ANY FORMS REQUIRED BY THE DEPARTMENT AND THE
 15 PROCEEDS OF THE COLLECTED TAX. THE MANUFACTURER SHALL KEEP A
 16 RECORD OF TAXES COLLECTED AS REQUIRED BY DEPARTMENT RULE.
 17 THE RECORDS MUST BE MADE AVAILABLE FOR INSPECTION BY THE
 18 DEPARTMENT UPON REQUEST OF THE DEPARTMENT. THE DEPARTMENT
 19 SHALL RETAIN THE PROCEEDS OF THE TAX TO ADMINISTER THIS
 20 PART."

21 NEW SECTION. Section 57. Codification instruction --
 22 code commissioner instruction. (1) [Sections 4, 7 through
 23 11-and-14-through-23 25, 34, AND 55] are intended to be
 24 codified as an integral part of Title 23, chapter 5.
 25 [Sections 17 14 through 23 20 AND 21 THROUGH 25] are EACH

1 intended to be codified as a separate part of Title 23,
 2 chapter 5. The provisions of Title 23, chapter 5, ~~part--17~~
 3 apply to [sections 4, 7 through ~~11-and-14-through-23~~ 25,
 4 ~~34, AND 55~~].

5 (2) [SECTION 37] IS INTENDED TO BE CODIFIED AS AN
 6 INTEGRAL PART OF TITLE 23, CHAPTER 5, PART 3, AND THE
 7 PROVISIONS OF TITLE 23, CHAPTER 5, PART 3, APPLY TO [SECTION
 8 37].

9 (3) [SECTION 44] IS INTENDED TO BE CODIFIED AS AN
 10 INTEGRAL PART OF TITLE 23, CHAPTER 5, PART 5, AND THE
 11 PROVISIONS OF TITLE 23, CHAPTER 5, PART 5, APPLY TO [SECTION
 12 44].

13 ~~{2}{4}~~ The code commissioner shall recodify part 10 of
 14 Title 23, chapter 5, as a new chapter in Title 23. Internal
 15 references in the Montana Code Annotated section text and in
 16 any act of the 52nd legislature must be changed by the code
 17 commissioner if necessary to retain their original meaning.

18 ~~NEW-SECTION--Section-25--Coordination--instruction--If~~
 19 ~~---Bill-Not---{b6--1036}--is--not--passed--and--approved,~~
 20 ~~{section-10-of-this-act}-is-void.~~

21 NEW SECTION. Section 58. Effective dates. -71)
 22 {Sections-1-through-97-11-through-267-and-this-section}--are
 23 effective-October-17-1991-

24 ~~{2}--{Section-10}-is-effective-July-17-1992-~~

25 (1) [SECTION SECTIONS 4, 26, AND THIS SECTION] ARE

SB 0427/04

1 EFFECTIVE ON PASSAGE AND APPROVAL.

2 (2) [SECTIONS 1 THROUGH 25 AND 27 THROUGH 56 57] ARE

3 EFFECTIVE JULY 1, 1991.

-End-